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Evaluation of Federal Labour Standards (Phase I)

Final Report

Evaluation and Data Development
Strategic Policy
Human Resources Development Canada

August 1997

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Acknowledgement

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Executive Summary

I. Introduction

This report presents the findings from the first phase of the Evaluation of Part III of the Canada Labour Code (Federal Labour Standards) conducted in 1996-97. Part III of the Code includes a variety of labour standards in such areas as hours of work, overtime, holidays, vacation pay, termination, severance and sexual harassment, and applies to businesses or enterprises under the Canadian Federal jurisdiction, such as interprovincial transportation (trucking, air, railways), banking, telecommunications and others. Provincial labour standards apply to other businesses or enterprises in the twelve Provinces and Territories.

The evaluation examined several issues related to the administration and the delivery of the Labour Program, the level of compliance with Part III, alternatives to the current model of service delivery, and cost-benefit and socio-economic aspects of compliance with Federal labour standards.

II. Methodology

The data collection activities conducted as part of this study included: a review of background research on labour standards (academic and governmental publications); interviews with key informants; a substantial national survey of over 600 employers, national surveys of union representatives and Labour Affairs Officers (LAOs); and a review of administrative data (Labour Program, LOIS Data Base).

The survey of employers was in part experimental - a test designed to determine if a measure of compliance could be obtained through a survey. While a wide range of data was collected, a limitation which should be noted was that no component in the study method obtained views from employees generally, except from unions in the smaller number of cases where workplaces were unionized.

III. Overview of Program

Rationale: The policy rationale for labour standards is multi-faceted and complex. Generally seen as providing a basic floor for worker's rights (particularly in non-unionized workplaces), labour standards are also justified as providing for a level-playing field among employers and preventing a "race to the bottom" in the reduction of labour costs to the detriment of workers. Different rationales may be held by different stakeholders and this may partly explain why labour standards have remained an intensely debated topic in recent years, particularly as regards issues such as the impact of labour standards on productivity, profitability and international competitiveness.

The particular rationale for Federal labour standards (in addition to Provincial standards), is to provide protection to workers in the Federally-regulated sectors (interprovincial transportation, telecommunications, grain, and other sectors). This is noted as a key function for the Federal government, because of the role of these sectors in the national infrastructure, and because Federal standards often influence Provincial ones. Because these sectors are key elements in the national infrastructure, their effective regulation may have special importance to Canada.

Program Delivery: The Labour Program which delivers Part III services mandated through the Code faces serious constraints both within and external to the system. As is noted within, these constraints are exacerbated by an increasing level of complaints under Part III, all of which must, by law, be investigated by the program. As well, the efficient delivery of the Part III provisions of the Code is made more challenging by a number of factors.

For example, the administration of the program has undergone significant reorganization in recent years, the most notable change being the integration of the former Department of Labour with the Department of Human Resources Development. Understandably, this reorganization has created a certain level of organizational stress and numerous concerns were identified regarding the potential impact of the reorganization on Part III service delivery. The fact that integration with HRDC has occurred in an era of fiscal constraints and deregulation in other areas has made this organizational stress even more pronounced. Other issues for the Labour Program were identified as requiring attention in coming years, particularly workload, the training of LAOs, reporting structures within regional operations, the establishment of quality control and performance standards in the delivery of the program, and the development of effective communications.

Part III of the Canada Labour Code operates under a *Compliance Policy* which emphasizes a number of key objectives. These objectives include a focus on preventive and educational efforts, and workplace interventions favouring harmonious conflict-resolution and voluntary compliance. Fines and prosecutions are to be used as a last resort, when non-compliance is repeated and deliberate. Many aspects of this evaluation, while underlining the argument for this approach, suggest that there is a need for new strategies to fulfill this important policy.

IV. Summary of Findings

Priorities for the Labour Program: Informants expressed a wide range of views on the priorities of the Labour Program in delivering services under Part III of the Labour Code. Employers favoured voluntary actions and the improved provision of education services to improve compliance. LAOs favoured expanding their work in education and mediation, although they also reported that stronger enforcement tools were required to deal with persistently non-compliant employers. Union respondents saw the investigation of complaints as the key priority which the Labour Program should observe.

Level of Compliance: Survey data collected for this study point to widespread ignorance of and non-compliance with Part III, particularly in some areas such as normal hours of work and severance pay.[1] While many employers responding to the survey believed that they were in compliance with the Code, their responses on specific employment practices often indicated non-compliance.

For example, more than 20 percent of employers indicated that they did not give severance pay to their employees, even though severance was a requirement under Part III. Also noteworthy is the fact that a large number of employers reported being unaware of whether their current employment practices were consistent with the Labour Code. Some employers reported following the system they knew or liked ("the provincial code is clearer, so we follow it..."). Generally, lack of employer awareness was identified as one key driving force behind non-compliance, while some evidence also pointed to deliberate violations for smaller numbers of employers. [2]

Non-compliance with the Code, as measured by the employer survey (and similar results were found for unions), was correlated in a statistically significant (albeit modest) way with a number of employer characteristics such as: being a smaller firm; not being unionized; not employing human resources professionals (indicative of a small business factor); being in operation for only a few years; being less profitable; making less use of contracting/outsourcing; seeing fewer costs and benefits of labour standards; and being in the trucking industry. (It is noted that the trucking sector is a major source of complaints, workload and administration costs for the Part III program[3].) Non-compliance as measured in the survey was also correlated with the rate of violations recorded in the Labour Operations Information System (LOIS), but not with the rate of complaints received by the Labour Program.[4]

The Requirement to Investigate Complaints: Considerable evidence collected in the course of this study indicated that the Labour Program was impeded in the preventive and educational efforts by resource constraints, and the high volume of complaints which must be investigated by Labour Affairs Officers (LAOs). Dealing with a high level of complaints has consumed most resources and thus prevented the program from taking an effective proactive stance on compliance issues. (Proactive measures not undertaken at a sufficient level at the present time would, for example, include mailings or seminars designed to educate employers on the requirements of the Code).

The evaluators noted that a purely complaints-based intervention was probably not the most effective strategy to overcome broader non-compliance with the Code, although the investigation of complaints is clearly a first legal priority in the delivery of the program. An important side effect noted is that trend data suggests that spiraling Part III complaints in recent years may have drawn resources away from important work in Part II, occupational health and safety.

The absence of sufficient educational efforts promotes the "spiral effect" in the sense that more violations occur by reason of lack of awareness or understanding of labour standards, thus forcing LAOs to investigate more complaints. This increases the costs of the purely reactive function of the program, without actually improving compliance generally, or controlling the spiral of complaints in any way.

Implication of Non-LOIS Firms for the Complaints Model: A key hypothesis tested in the study was that firms not known to the Labour Program would be high in compliance. Comparison of a sample of these firms to firms already known to LOIS did not support this hypothesis. Indeed, both groups were similar, but LOIS employers were more in compliance. These results: (1) suggest that considerable work for the Labour Program exists among firms it has not dealt with historically; and (2) indicate further the weakness of a purely complaints-driven system.

Alternative Service Delivery: The evaluation noted the efforts of the

Labour Program to examine alternative methods of service delivery, such as partnerships with the Provinces/Territories, information dissemination, cost-recovery, etc. Some of these options were regarded by key informants and those surveyed as being able to potentially improve the effectiveness of the program, while some other options attracted little interest.

Educational/Informational Efforts: Potential program improvements were particularly noted around the issues of education and stronger enforcement tools. In the area of education, there was a general consensus among key informants, that more educational efforts could affect compliance with the Code.

However, it was noted that "passive" educational programs (i.e., simply making the information available) may not reach the population of non-complying firms. This is true because responses of a significant segment of employer survey respondents indicated that they would not actively seek additional information on Part III of the Labour Code. For these employers, more active educational interventions such as direct mailings, visits to the workplace, etc. may be more effective, although the cost implications are higher.

Enforcement: In the area of enforcement, LAOs overwhelmingly indicated that stronger enforcement tools are required to affect compliance, particularly for certain provisions of the Code such as the timely payment of wages, individual terminations, and overtime pay rate. With respect to payment of wages, many LAOs reported that they lacked effective ways to enforce payment orders when employers refused to comply. Another element of stronger enforcement was the implementation of an effective system of fines and tickets, as an alternative to the current prosecution system which is significantly impeded by the cost of pursuing legal actions against employers.

As well, many LAOs indicated that there was a need for more thorough reviews of non-compliant employers, to assess if violations evident for a given employee were occurring for other employees, and to assess if the employer was non-compliant in other ways. The importance of this issue was underlined by our previously-noted finding, that many employers in violation of the Code remain non-compliant.

Delivery Alternatives: The potential for co-delivery with the provinces from an LAO perspective seemed most promising in the areas of education and awareness programs, the delivery of services to remote areas, and the supply of informational programs. As well, many LAOs indicated a need for improved approaches to the regulation of labour standards for First Nations.

The option of privatizing Part III services was rejected by a cross section of key informants, particularly because it was felt that a privatized delivery system was inconsistent with enforcing the provisions of the Code, which is, as a typical key informant noted, "what the Government is supposed to do". Self-regulation with respect to Part III was also not seen as a direction which would solve more of the systemic problems of delivery and compliance - only selected sub-groups of employers and unions expressed interest in specific delivery compliance alternatives such as internal mechanisms, industry association efforts, etc.

Cost-Benefit and Socio-Economic Aspects: The survey of employers revealed that the cost of labour standards was not in general seen as a significant issue. About 60 percent of employers reported that current labour standards did not impose any additional administrative costs to their operations, while about 50 percent reported no additional labour costs. Those employers identifying additional costs caused by Part III standards reported (on average) only modest costs to administration or payroll. Employers and union representatives both saw the costs and benefits of labour standards as relatively balanced for firms. As well, both employers and unions generally agreed that benefits of labour standards were far greater than costs for employees.

The fact that most employers did not perceive costs of labour standards to be substantial for their firm suggests that economic impacts of business complying or not complying with labour standards are minimal on average. Additionally, compliance with labour standards was found to be positively correlated with a variety of indicators of business success such as taking on staff, operating at full capacity and operating profitably.

Thus, any negative link between labour standards and corporate profits or international competitiveness appears tenuous at best, for employers in general, although possible impacts on some specific sectors (such as grain) were noted and may require further analysis, possibly in Phase II of the evaluation (see below).

The fact that strong benefits on the worker's side were noted by both employers and union representatives, combined with a balance of costs and benefits for employers, suggests that the labour standards represent a net benefit for Canada. Compliance appears to be no impediment to profitability, and may even be part of a more successful general business stance (good working conditions for employees) resulting in higher economic performance.

V. Future Directions

The evaluation noted potential future directions for continuing efforts on the part of the Labour Program to improve service delivery and labour standards. These options suggested by the evaluation included:

1. Program Redesign for Proaction: A priority suggested by the evaluators is to give new focus to pro-active and educational efforts (possibly through a partial redesign of the Part III

services delivered by the Labour Program). This could be centred on a business case to Treasury Board, for a new program element to reverse the spiral of complaints and to fulfill the compliance policy. Such a program element could include a NHQ information function, including expansion of data bases (identifying firms subject to Part III of the Code), mass mailing and Internet informational functions, and a system of telephone inquiry lines to handle informational inquiries of all types.

2. Development of a More Comprehensive Audit System for assessing employers found to be in violation of one element of the Code, to ensure that other violations are not ignored. This direction could be linked to a new performance indicator, which would be the tendency of firms, once fully audited, not to generate further complaints or violations.

3. Other Program Development Suggestions were noted, including:

   Delivery options: closer cooperation with Provinces (particularly in the area of education and data issues), and development of new delivery approaches for First Nations;

   Development and implementation of a formal quality assurance program:useful guidance, for example, could be obtained from other government quality assurance programs or a broad reference such as ISO 9000, to systematize and improve quality control efforts already in existence, such as the work of the Regional Technical Advisors;

   Review of issues in new forms of employment (such as the growing use of contract or occasional workers, part-time work, etc.);

   Review of specific enforcement strategies to improve compliance with normal hours of work and severance pay provisions (for example, a stronger audit of employers found to have violations in a given area of the Code, investigating treatment of employees other than the complainant, and compliance with Part III provisions other than that generating the complaint); and

   Development of a communications strategy for the program, including items such as how to explain the rationale for labour standards to employers, and how to express the unique identity of the program. For example, to ensure that employers focus on the unique issues of the Labour Program when dealing with labour standards issues and not the broader issues of HRDC (such as Employment Insurance), it is suggested that the program always be consistently identified to employers as "Labour Canada, HRDC", or "Labour Program, HRDC".

Code improvements, for example examining new avenues for governing long hours of work, or the right to refuse overtime.

A Second Phase Evaluation: The evaluation of Federal Labour Standards was previously scheduled to include a second phase of work to be conducted in 1997-98. Some key components building on this evaluation's research agenda could include: examining cost of labour standards and international trade impacts in selected sectors (e.g., grain, perhaps in comparison to one or more other sectors); examining how to adapt the Code to the new world of work, possibly through a case study of the trucking industry; a survey of international practices in labour standards enforcement; a review of delivery alternatives for First Nations, and a survey of complainants (employee perspective on Part III and the Labour Program).

Some broader issues suggested by the evaluators for examination in any second phase of this evaluation (and consistent with components suggested above) include: equity and efficiency issues in relation to labour standards; integration of labour standards with complementary policy initiatives and instruments; interjurisdictional harmonization, positive impacts on competitiveness, labour adjustment, and consistency with international initiatives.

Generally, the effort to test a survey approach to measuring compliance appears to have been successful. This may provide other uses for the program in the future.

As well, the LOIS data was found to be extremely useful. This data base should be improved and further developed, not just for recording and research, but also as a tool for steering education and enforcement.

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Management Response

Labour Program Management has reviewed the final report of the Federal Labour Standards Evaluation (Phase I) completed in August, 1997. Overall, management is pleased with the positive working relationship between the Labour Program, the Evaluation and Data Development Branch and SPR Associates. The Labour Program feels this relationship has led to a thorough and realistic evaluation which yields practical, "do-able" recommendations. Management is particularly impressed with the successful efforts made to ascertain the views of employers and unions who are affected by federal labour standards, including the use of innovative survey questionnaires and methodology.

Many of the evaluation's findings have provided valuable evidence validating what has been observed in other exercises. For example, an increased number of complaints are being handled under Part III at the expense of proactive elements such as client education. The level of Part III complaint handling has had a negative impact on other Labour Program activities, particularly in the areas of occupational safety and health and workplace equity.

The evaluation findings and recommendations have been accepted. Follow up activities are being undertaken. The Labour Program has received support from the services group to fund an early resolution program which will provide Labour Affairs Officers with more time to pursue more proactive training and education. The compliance policy is being revised. New performance delivery standards are being created. Innovative means of service delivery along the lines suggested by the evaluation, such as self-help kits, are being developed, piloted and tested. Improvements will be made to management information systems. The legislation is under review for possible amendment to permit more efficient and effective program delivery while not compromising on worker protection. These changes should provide savings in time and money for government, employers and workers.

Labour Program management fully endorses the evaluation's conclusions regarding a need for a Phase II Labour Standards Evaluation.

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1. Introduction

1.1 Purpose

In accordance with Treasury Board requirements for periodic program evaluations, Human Resources Development Canada (HRDC) developed plans for a two-phase evaluation of the Labour Standards Operations to be conducted in 1996-98. This document reports on Phase I of the Evaluation of Federal Labour Standards conducted by SPR Associates Inc. in 1996-97. This report addresses a number of evaluation issues originally contained in the Terms of Reference, and two additional topics which stood out as particularly important from the point of view of key stakeholders and the Evaluation Team.

One key topic is the extent to which current practices of the Labour Program respond to the goals set out in the Compliance Policy of the program and the expectations of key stakeholders. This issue is given prominent treatment through the examination of intervention strategies and preventive efforts. Related questions include: What are the actual levels of compliance and non-compliance? What are the factors which facilitate compliance? What are the best strategies for improving compliance, and (where needed) for improving program administration?

Another key topic is the costs and benefits of labour standards for employers and employees. The potential cost implications of labour standards legislation has been the object of intense debate, but few studies have attempted to collect the views of workplace parties on this topic. This evaluation provides a fresh perspective by presenting results from surveys of Federally-regulated employers and unions. Evidence on this topic helps answer the key question: What are the benefits of Part III of the Canada Labour Code for Canada? All of these questions are considered in the context of a "new world of work", where traditional concepts of employment are constantly being changed and challenged, and a new world of international competitiveness, within which labour issues must be framed.

As of writing, a second phase of the evaluation is planned for 1997-98. The Evaluation Team makes a number of recommendations in the last section of this report with regards to areas of investigation for the second phase of the evaluation.

1.2 Program Background and Economic Context

1.2.1 Historical Context

The historical origins of labour standards legislation[5] in Canada can be traced back to the Federal Factory Acts of the 1880's. That legislation dealt with a variety of issues pertaining to industrial employment, of which labour standards were only one part. The standards legislation at that time was restricted largely to women and children, and was restricted to issues of wages and hours of work. The intent was to protect them from the "sweatshop" conditions that were common at that time.

During the early 1900's, the legislation was consolidated and extended in a variety of ways. It was consolidated into separate legislation dealing with specific labour standards. It was extended to the general industrial workforce and to encompass most of the standards that prevail today in such areas as minimum wages, hours of work and overtime, and wage protection. Issues pertaining to vacations and holidays were added in the 1940's, and provisions on termination of employment were added in the 1970's.

Today, Federal labour standards are contained in Part III of the Canada Labour Code and the related Labour Standards Regulations. The Code applies to all Federally-regulated undertakings or businesses, including industries operating in interprovincial and international rail, road, air and marine transportation; telecommunications; broadcasting; banks (excluding trust companies and credit unions); and certain Crown corporations. Firms which are not Federally-regulated are covered under similar Provincial or

Territorial labour standards laws.

Part III of the Canada Labour Code (hereafter the Code or Part III) encompasses some 15 regulatory items relating to: hours of work; overtime pay rate; minimum wages; annual vacations; statutory holidays; maternity and parental leaves; bereavement leave; group and individual terminations; severance pay; garnishment of wages; sick leave and work-related injuries; unjust dismissal; equal wages; payment of wages; and protection against sexual harassment. A summary of each of these regulatory items is provided in Appendix A.

1.2.2 The Changing Environment of Labour Standards

Clearly, labour standards legislation was established in societal and work environments that were quite different than those that prevail today. While originally designed to "protect" women and children, they have been extended to a workforce that could be characterised as industrial, male-dominated, blue-collar and often employed in large fixed worksites. The extent to which the same type of legislation is needed for today's workplace and workforce is an interesting and open question.[6]

Changes in the Nature of Work: Since the demand for labour is derived from the demand for the products and services produced by organizations, the myriad of changes that impact on organizations filter down to their respective workforces. Technological change, especially associated with computerization and the information economy, has reduced the demand for unskilled labour while increasing the demand for skilled labour. Global competition and trade liberalization has had a similar effect. In the economy at large, the associated restructuring has been away from manufacturing and towards both high-end financial and professional services, and low-end consumer services.

Prolonged and deep economic recessions, especially in the early 1980's and 1990's, have left their legacy, especially a continuously high rate of unemployment. Privatization has been common in the public sector, as has deregulation in the quasi-public sector. Pressures on employers to be flexible and adaptable have resulted in employer demands for a more flexible and adaptable workforce. Non-standard employment in such forms as contingent employment, contract employment, permanent part-time work, temporary help agencies, outsourcing and self-employment have become more common.

These changes have profound implications for labour standards. On the one hand, there is a greater need for such standards to deal with the adjustment consequences and to provide a safety net for the bottom of an increasingly polarized workforce. On the other hand, there is also greater resistance to such standards from employers as their need for flexibility can conflict with regulations in such areas as hours of work or termination. Additionally, pressures on employers for de-regulation in their product markets are often reflected in subsequent demands for deregulation in labour markets.

Changes in the Nature of the Workforce: The Canadian workforce itself is changing, also with important implications for labour standards. The baby-boom population, now in their 50's, is reaching the age of early and normal retirement. Their higher wage and fringe benefits can make them a logical target for terminations, especially if older workers find it difficult to adapt to the technological change associated with computerization and the information age. Women have dramatically increased their participation in the labour force, increasing the pressure for standards pertaining to such factors as equal pay and maternity leave. Similarly, the dominance of the two-earner family increases the pressure for flexible worktime arrangements and for such rights as the right-to-refuse overtime. Changing family structures also raise the issue of how standards that are related to individual workers can deal with issues that are family related. For example, minimum wages may be an overly blunt instrument to deal with family poverty, while restrictions on long hours apply to individual workers and not to family hours.[7]

Institutional Changes: Pressures on labour market institutions are also changing dramatically, again with important implications for labour standards. Perhaps the greatest pressure on labour standards is coming from the increasing competition from governments for business investment and the jobs associated with that investment.[8] Capital is increasingly mobile, and with reduced trade barriers organizations can now locate in countries with few costly regulations and export into countries with higher labour costs, including costs that are induced by labour standards. To attract that capital and influence plant location decisions, governments may follow an "open for business" strategy by reducing their costly regulations, including labour standards. Such competition can lead to a "race to the bottom" and a harmonization of labour standards to the "lowest common denominator."

The changing environment creates both challenges and opportunities with respect to labour standards. This new environment is increasing the need for labour standards to deal with the adjustment consequences and polarization, just at the same time as the environment is also making it more difficult for governments to impose and enforce such standards. Just as the other actors in the economic scene (i.e., businesses and unions) have had to adapt and find market niches in order to survive, so will governments have to adjust in their design and enforcement of labour standards.

1.2.3 Labour Program

Services and enforcement activities carried out in relation to labour standards contained in the Canada Labour Code are administered by the Labour Program of Human Resources Development Canada (HRDC). These services and activities are primarily delivered by

Labour Affairs Officers (LAOs) who have statutory authority under section 249 of the Code, to aid enforcement.[9]

On the whole, Labour Affairs Officers are engaged both in enforcement and educational activities, with a broad mandate relating to the investigation of complaints of non-compliance, the motivation of employers and employees to comply with labour standards, and the mediation of complaints of unjust dismissal. To this end, officers employ a wide range of instruments and techniques aimed at providing a climate favourable to compliance through emphasizing harmonious conflict-resolution and voluntary compliance rather than through emphasizing strict enforcement and the imposition of fines and penalties.

The Compliance Policy, implemented in 1986, was designed to facilitate compliance with Part III of the Canada Labour Code and its regulations and to deal with situations of non-compliance. The stated objectives of the Compliance Policy are to ensure "a fair, more effective and less costly compliance activity; structured discretion exercised openly by officials of Labour Canada; and a national policy to be applied consistently across the country."[10]

The Compliance Policy outlines the methods to be used to inform workplace parties of their obligations under the Code and to encourage employers and employees to monitor compliance in their workplace, and to participate in the administration and development of the legislation.

1.3 Evaluation of Part III of the Canada Labour Code

This phase of the Evaluation of Federal Labour Standards focused on three aspects of the program, namely the effectiveness of Labour Standards Operations, the delivery of services and socio-economic aspects of compliance with the regulations.Phase II of the evaluation is intended to examine other issues, including macro-economic impact of labour standards, such as impacts on international competitiveness (see Section 6).

Multiple Data Sources: the study relied on several sources of qualitative and quantitative information which are briefly described below (additional notes on the methodology and data analysis are provided in Appendix D):

- Key Informant Interviews: Over 40 interviews were conducted with HRDC managers, Labour Affairs Officers (LAOs), selected employers, industry associations, and union representatives.[11] Key informants were selected from lists of relevant people provided by the Labour Program staff, and subsequent referrals from the initial key informants. These interviews provided important contextual information for the development of the study methodology and instruments, as well as key data for addressing some of the major evaluation issues. In addition, in-person and telephone group sessions were held with the Part III Regional Technical Advisors.

- Documents and Literature: A wide range of literature was examined, including both the internal literature of the department (policy papers, evaluations, operational policies, etc.) and the published literature on labour standards legislation in Canada and elsewhere. Overall, more than 60 sources were examined as part of this review (see Appendix E, Bibliography).

- Analysis of Administrative Data: Data on the administration of the program were extracted from the Labour Operations Information System (LOIS). This information system contains data on all assignments (inspections, investigations, etc.) conducted by LAOs, as well as the complete history of compliance data for each Federally-regulated firm known to the Labour Program. In some cases this information was examined along with statistics in published reports of the Labour Program.

- A variety of surveys of program participants were conducted to illuminate key evaluation issues.[12] These included:

  Survey of Federally-Regulated Employers: A survey of over 600 employers in Federally-regulated sectors was conducted to obtain their views on the Canada Labour Code and services delivered by the Labour Program. Topics included satisfaction with the Labour Program, reported employment practices (compliance with the Code), and perceived costs and benefits of labour standards. An exploratory feature of the survey was to test survey questions to measure compliance with Part III of the Code — to determine if the level of compliance with labour standards could be measured by means of a questionnaire.

  The main sample of employers was randomly selected from the Labour Operations Information System (LOIS), with stratification by compliance data. A supplementary sample was surveyed, including Federally-regulated firms which were not recorded in LOIS.[13] The purpose of the inclusion of the non-LOIS sample was to test the hypothesis that employers not known to Labour Program were in compliance with the Code.

  Results: Overall, a response rate of just over 60 percent was obtained for the employer survey.

  Analysis: Except where noted otherwise (e.g. in regressions etc.) all employer data presented in this report are weighted, to be representative of the overall population of Federally-regulated firms with regards to compliance, industry, etc. For all correlations and regressions the employer N=618 cases.

Survey of Unions: In conjunction with the Survey of Employers, a Survey of Unions was conducted to obtain their views on key evaluation issues — to supplement the main employer data. The sample of unions was derived from the sample of firms identified in the LOIS data base as unionized. Union representatives sampled were those knowledgeable about employment practices for the specific employer.

The union survey sample was small primarily due to the small number of unionized employers under the Federal jurisdiction (although generally larger employers). Some 150 unions were sampled, with a response rate of just over 50 percent.[14]

Survey of Labour Affairs Officers: A Survey of Labour Affairs Officers (LAOs) responsible for services and enforcement activities under Part III of the Code was also conducted. This survey dealt with a wide range of issues related to the Labour Code, the services provided under Part III, views on how to improve compliance, alternative service delivery and job satisfaction. The survey included all LAOs identified at the time of the survey as working on Part III — over 100 LAOs across Canada. More than 70 percent of LAOs responded to the survey.

All three survey forms are reproduced in Appendix B of this report, while main results are reported in Appendix C.

The findings from the main data collection activities are fully integrated in this report, in order to present a thematic treatment of the evaluation issues.

Evaluation Limitations: This study is the first phase of a two-year evaluation and (in many ways) is only exploratory in its assessment of some of the more complex evaluation issues.

Challenge of measuring compliance: The Survey of Employers collected a wide-range of information on workplace practices in an attempt to measure compliance with the Canada Labour Code. While the results give strong confidence that overall compliance can be measured for individual firms, not all sub-indicators were successful in measuring precise workplace practices on specific Code items. This is largely attributable to the complexity of the regulations and the inherent limitations of close-ended survey indicators. For this reason, although some estimates are given regarding compliance with different areas of Part III, measures of compliance on specific Code items are more usually summarized in this document, into an overall indicator of compliance.

Need for better employee data: Further, a limitation must be noted in the simple fact that most of the empirical evidence collected as part of this study relies on the Survey of Employers. Some inaccuracies in the evaluation data could result due to the lack of equally reliable data from employees. This is particularly true for non-unionized employers.

Several scenarios were explored in the design phase of this evaluation to collect similar data from employees, but these options were abandoned due to the lack of a representative "voice" in non-unionized workplaces, and also the lack of a broader understanding of compliance issues. For this reason (despite the fact that many small Federally-regulated firms are non-unionized), the Evaluation Team included the Survey of Unions, as a "best proxy" for employee input.

The surveys of union representatives provided less exact information on compliance than had been hoped for. This situation is largely attributable to the fact that union representatives were often found to have incomplete knowledge of their firm's practices relating to Part III labour standards — in other words, this was not typically an area in which unions exercised themselves.

Collective agreements generally provide for their own dispute resolution mechanisms and awareness of Part III labour standards within unionized workplaces is not as good as might be expected.

Not surprisingly, therefore, many local union representatives replied "don't know" on questions of specific compliance with Part III in their workplace. As a result, the main use made of this data in the evaluation was limited to broad indicators relating to cost-benefit issues and Labour Program priorities.

The Evaluation Team makes a number of observations in the last section of this report, which include suggestions for collecting employee's views on labour standards — possibly through a survey of complainants. It is emphasized that some of the lessons learned and the knowledge-base built in this study should allow for the possibility of a detailed examination of employee's concerns in any second phase of the evaluation.

Other limitations: Other study limitations which may affect the evaluation results include: (1) gaps in the LOIS data: a particular gap results from the use of LOIS primarily as (what the evaluators would call) a recording data-base, rather than as a contacts-driving data base. As a result, a substantial portion of the contact information (names, addresses, phone numbers) in LOIS is not current at any given time. Extensive efforts were required to locate employers and particularly unions (see Appendix D); (2) point-in-time analysis: because the data on employers and compliance is, for the surveys, taken at one point in time (cross-sectional), rather than historical-longitudinal, some possible causal relationships cannot be fully untangled.

Some Technical Analyses: Some analyses not fully discussed in the main report are presented in Appendix D. These analyses have to do mainly with the hypothesis that non-LOIS firms will be more in compliance, since they are not subject to complaints (this hypothesis was rejected. Generally, non-LOIS firms were found to be similar to LOIS firms, and both groups shared a high rate of non-compliance as noted in the report); and some aspects of predicting non-compliance (regression analyses and discriminant analyses).

This Report: The main findings from this evaluation are reported in this document. The report is organized around four main evaluation themes. Section 2 deals with the rationale for Federal labour standards; Section 3 with the Labour Standards Operations; Section 4 with the Labour Program services and enforcement activities; and Section 5 with the cost-benefit and socio-economic aspects of labour standards. Key findings and conclusions are summarized in Section 6 of the report, which outlines some possible future directions for the Labour Program.

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2. Rationale for Federal Labour Standards

Examining the variety of rationales for labour standards sheds considerable light on their relevance to the changing labour market of today and the changing environment in which such standards operate. The rationales discussed here are examined mainly as reflected in the published literature. They include a variety of perspectives held by different stakeholders, such as employers and unions, and reveals a wide range of underlying economic and social goals.

Labour standards generally provide a floor or safety net that is regarded as a minimum below which government stipulates that employers and employees are not allowed to operate, even if they voluntarily agree to do so. A variety of rationales have been given for such a floor or safety net. Humanitarian or equity oriented rationales are often promulgated, especially to protect the most disadvantaged from "sweatshop" conditions.[15] Raising the floor may also be an inducement to raise the average standards in the economy, although the issue of whether the economy can afford such increases throughout the full range of standards rather just at the floor is often debated. Even if raising the floor eliminates jobs at the floor, some have argued that this should be considered a desirable outcome since this spurs moving up the "value-added chain" and discourages competition on the basis of a "low-road" low-cost strategy.

Labour standards may also enhance the bargaining power of the disadvantaged and the unorganized.[16] In the economy, a few individuals have considerable individual bargaining power, while others are unionized and can benefit from collective bargaining power. Most people, however, have little individual or collective bargaining power and, for these persons, labour standards are often seen as providing a more level playing field between employers and unorganized workers in negotiating employment conditions.

A further equity oriented rationale for employment standards relates to assisting the disadvantaged and disenfranchised. In less developed countries, certain core labour standards are often advocated as a means to prevent or at least inhibit the most unacceptable forms of exploitation, such as child labour and forced or slave labour.[17] While extreme examples of this nature are not generally present in developed countries, some groups can be disenfranchised in the sense that they are not "at the table" in either individual or collective bargaining decisions that nevertheless can affect them. For example, restrictions on long hours of work and overtime have often been advocated to facilitate worksharing. However, groups who benefit the most from such arrangements (the unemployed and underemployed) are usually not "at the table" when overtime decisions are made.

In a related vein, labour standards legislation may assist the working poor — those who work, often full-time, but whose labour market earnings are still insufficient to raise them out of poverty. There is particular societal concern over this group because the labour market is unable to provide them a "first line of defence" against poverty. If they are to be encouraged to leave other income support programs (with their well-known adverse work incentive effects) then viable alternatives must be provided in the labour market. Labour standards may enhance their labour market outcomes and hence make labour market work a more attractive alternative to income maintenance such as social assistance or unemployment insurance.

By providing a floor below which employment transactions cannot occur, labour standards may prevent a "race to the bottom."[18] Without such standards, employers may be compelled to match their competitors who follow a "low-road" strategy of competing on the basis of cutting labour costs. In such circumstances, employers may collectively agree to be bound by such standards providing they are fairly and uniformly applied to all. In essence, they have a "level playing field" at least with respect to the floor.

While some employers may mutually agree to be bound by a set of regulations that prevent them all from competing on the basis of substandard employment conditions, others may simply want the legislated standards because they already have to meet them and they simply want them imposed on their competitors. They may already exceed the standards, for example, because of a collective agreement or the competitive conditions under which they operate.

In such circumstances, they may support legislated standards because they will be more of a binding constraint on their competitors than upon themselves.

To the extent that government can provide protection through labour standards legislation, such legislation may be regarded as an alternative to unionization. In fact, when labour standards legislation was first introduced, it was often opposed by unions for fear that it would be a substitute for the protection of a collective agreement. For example, the passage of the Worker Adjustment and Retraining Notification Act (WARN) during the Reagan era in the United States was often regarded as protective labour legislation that could help prevent the restoration of unionization in that country, given its precipitous decline since the mid-1960's.

While labour standards legislation was initially seen as a substitute for unionization, this potential effect was soon overshadowed by the fact that such legislation was a powerful force to level competition between union and non-union labour. In the unionized sector, labour standards legislation generally has little direct effect since most provisions in collective agreements exceed the minimal standards in the legislation. However, in the non-union sector, the effects of the legislation may be more substantial. To the extent that it would raise the standards and the labour costs in the non-union sector, then this would level competition with unionized sectors. In part for that reason, unions tend to strongly support the extension and stringent application of labour standards.[19]

Some legislated labour standards can also reduce the need for other costly mechanisms for achieving similar objectives. Individuals who are dismissed without "just cause" can pursue a wrongful dismissal case in common law courts. This procedure being notably slow and costly, however, it is generally only pursued by higher-level personnel. Pressure on this costly system can be reduced by labour standards providing individual and group protection in the case of termination, as well as by statutory protection in the form of unjust dismissal proceedings.

Labour standard legislation is often rationalized on the grounds of offsetting market failures. The precise nature of the market failure, however, is seldom specified in the literature, except for the fact that the market does not ensure an equitable distribution of income. Of course, it is by no means clear that high labour standards always improve the distribution of income, especially because employment may be adversely affected by the cost consequences of the legislated standards. However, it is argued that labour standards legislation could enhance the efficiency of private markets by correcting information asymmetries that often exist between employers and employees.

Even in situations where the parties are fully informed and have reasonable individual or collective bargaining power, the cost consequences of their decisions may spill over onto other parties or society as a whole. For example, even if employers pay a compensating wage premium for the risk associated with health and safety hazards or layoffs, if those risks come to fruition much of the cost is born by society in the form of medical expenses or unemployment insurance. In such circumstances, it may be reasonable to impose regulations (e.g. health and safety, termination regulations) that will reduce the likelihood of such costs being incurred by society.

Finally, labour standards are sometimes rationalized more broadly on the grounds of ensuring certain community standards, and in fact providing some leading-edge standards to encourage their integration into private personnel practices or collective agreements. The community standard, for example, could apply to the historic norm of a standard workweek of say, 40 hours. Leading-edge standards in recent years pertained to maternity leave provisions, or perhaps the possibility of allowing employee rights to unpaid leaves for family or education reasons.

In conclusion, there is clearly a wide range of inter-related rationales for labour standards, which highlight the broad economic and social goals of such legislation. Given this diversity of rationales, labour standards are likely to be viewed differently by different groups. For some, they are social measures to help the disadvantaged. For others they are thinly disguised protection for already privileged positions or well-intended policies that will harm the very groups they are most designed to assist. Not surprisingly, such different views of the rationale for labour standards will carry over to how they relate to other mechanisms for achieving the same ends, as well as how they are viewed as affecting the labour market and the competitiveness of Canadian industries.

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3. Labour Standards Operations

3.1 Organizational Context

Overview of the Labour Program: The Labour Program is part of Human Resources Development Canada, but falls under the responsibility of the Minister of Labour.[20] The program is charged with the administration of legislation in the areas of occupational safety and health, labour relations, fire prevention, labour standards and employment equity. The activities of the program are divided between four Directorates which report directly to the Assistant Deputy Minister for Labour. The implementation of Part II and Part III of the Canada Labour Code falls under the responsibility of the Operations Directorate.

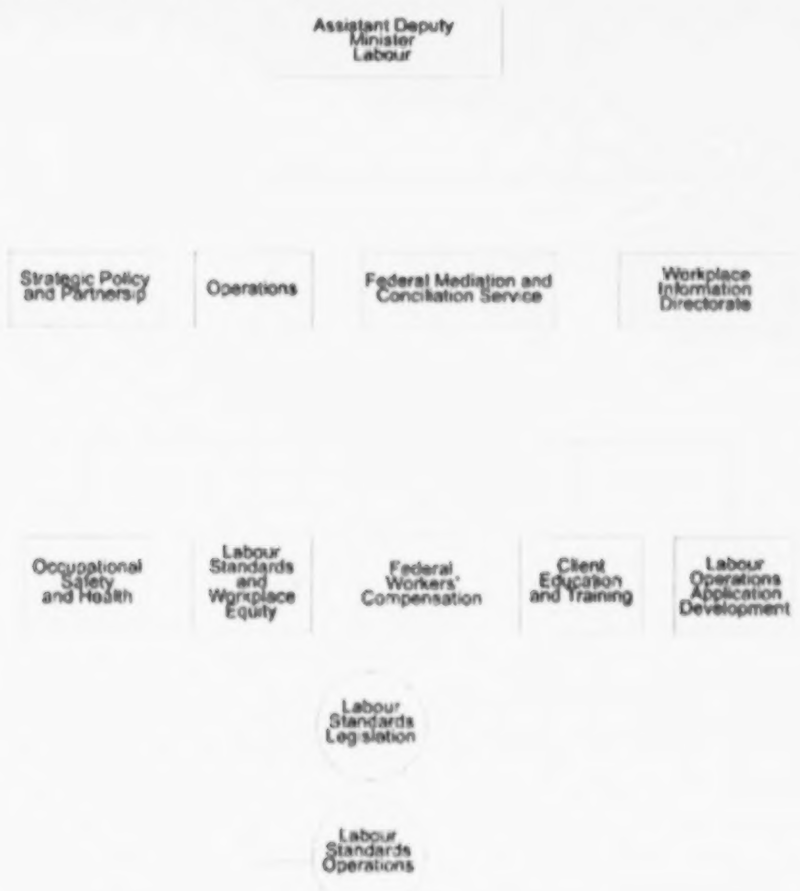
Within the Operations Directorate, Part III of the Code is administered by the Labour Standards and Workplace Equity Division. The labour standards activities of this Division are further divided into two units: Labour Standards Legislation and Labour

Standards Operations. Client service delivery and enforcement activities are carried out by Labour Affairs Officers based in various Regional and District offices or Human Resources Client Centres (HRCCs). An organizational chart of the Program is reproduced in Display 1, next page.

Overall, administration of Part III of the Canada Labour Code consumes a small portion of the Labour Program resources. In 1995-96, about 22 Full-Time Equivalents (FTEs) were assigned to administration of this part of the Code in National Headquarters, supplemented by about 110 Full-Time Equivalents in the regions. This represented only about 17 percent of total FTEs of the Labour Program. The operating budget of about $8 million allocated to administration of labour standards represented only about 7 percent of the total operating budget of the program.[21]

Nonetheless, over the past several years, the Labour Program has responded on average to about 5,000 complaints related to Federal labour standards every year, with the volume of complaints having grown substantially over the last ten years. The bulk of these complaints relate to non-payment of wages or unjust dismissal provisions of the Code. The majority of complaints (about 55 percent) originate from the road transportation industry,[22] but this sector also represents a large proportion of Federally-regulated firms.

Display 1
Organizational Chart of the Labour Program


Assistant Deputy Minister Labour
Strategic Policy and Partnersip
Operations
Federal Mediation and Conciliation Service
Workplace Information Directorate
Occupational Safety and Health
Labour Standards and Workplace Equity
Federal Workers' Compensation
Client Education and Training
Labour Operations Application Development
Labour Standards Legislation
Labour Standards Operations

Integration into HRDC: The integration of the former Labour Canada into Human Resources Development Canada dates back to 1993, but the reorganization of the program is still ongoing. The integration of services at the regional level has raised some specific issues, particularly with respect to the assignment of Labour Affairs Officers to Human Resources Client Centres (HRCCs). For example, some concerns were expressed by key informants in the course of this study that labour activities could become a low priority in relation to other ongoing HRDC businesses.[23]

Not surprisingly, reorganization has created a certain amount of organizational stress. Feelings about the amalgamation within HRDC are mixed, with some Labour personnel being strongly opposed to it, while others seeing it as a positive change. Transformations of this nature are rarely readily accepted by staff, especially when the Department being amalgamated had a long history as a separate entity, such as Labour Canada with some 100 years of existence. Adaptation to the loss of status as a department is taking place, but concerns among Labour Program employees are numerous and range from concerns about continuing quality in service delivery to clients being confused when they hear the phone being answered as "HRDC", when they expect to hear "Labour Canada".

It was noted by a number of key informants that the historic rationales for the two departments are very different, and hence the cultures differ. HRDC is generally accustomed to transferring money and services to Canadians, while the Labour Program is responsible for harmonious labour relations and the implementation of labour regulations. It appears that issues resulting from these differences of culture have yet to be fully ironed out.

Indeed, under the new reorganization, it is possible at times that LAOs could appear (at least from the user end) to be working at cross-purposes with other HRDC staff. To illustrate, while HRDC may want to give an employer a subsidy to create employment under a specific program, LAOs may be engaged in enforcement discussions — trying to ensure that the same employer complies with wage-related provisions of the Code.

One key informant indicated that the change has been difficult, but also that many of the problems which are seen with the new set-up may be psychological. Complaints of this nature are not uncommon in government reorganization, especially when the implementation of new structures is accompanied by significant cutbacks and downsizing. Moreover, other feedback received on amalgamation was clearly positive. Positive outcomes were particularly noted in the area of client service. HRDC has more offices which can distribute information about Part III to employers than the former Labour Canada. The amalgamation should also allow for more opportunities for the Labour Program to work together with other existing programs for the benefit of clients. Also, key informants suggested that HRDC people have brought a fresh perspective and new ideas into Labour.

Management and Reporting Structure: One area of the amalgamation which may require special attention is the clarification of lines of authorities and reporting within the Labour Program and regional operations. Concerns with this aspect of the program were reflected in the Survey of LAOs conducted as part of this evaluation.

LAOs were asked to rate on a seven-step scale the extent to which different roles and responsibilities were clear in the organization. Generally, LAOs indicated in a very large proportion that they knew who to ask for to obtain assistance on the interpretation of Part III provisions (86.2 percent), and that their role within HRDC was clear (73.1 percent). However, LAOs also indicated some confusion with respect to the role of their manager, either in relation to their technical advisors (only 68.8 percent reporting clear roles), or with respect to Part III in general (62.1 percent) (Display 2).

Display 2
Aspects of LAO's Work
Based on a Survey of a Sample of 74 LAOs

Are LAO duties an powers clear as regards Part III	
Yes	82.5%

No	17.5%
Who do LAOs report to:	
Labour Program Manager	83.8%
HRDC Manager/Director	13.2%
Other	4.4%
Clarity of the aspect of LAOs' work*	
(a) Who to ask for Part III information	86.2%
(b) Your role within the HRDC	73.1%
(c) Role of your Manager re Part III	62.1%
(d) Priority of Part III within HRDC	40.0%
(e) Roles of Manager versus Technical Advisor	68.8%

*A seven-step rating scale was used for this indicator, where 1 = not satisfied, 4 = adequate, and 7 = very satisfied. The percentages shown were obtained by totalling the proportion of responses indicating 5, 6 and 7.

This issue of the integration of LAOs into HRDC regional operations has been discussed for some time in the Labour Program. In September 1995, a report on the regional delivery of the Labour Program recommended that the reorganization of the Department result in the location of LAOs in HRCCs, with reporting authority to the regional HRCC manager.[24]

Under this proposal, regional managers would receive certification to manage Labour Program delivery and would be accountable for labour activities. On the other hand, technical support and quality monitoring would remain concentrated in the five regional Technical Advisors, where they existed prior to the integration into HRDC.

Yet, roles and responsibilities in the regional delivery of the program still appear somewhat unsettled. LAOs generally indicated that they reported to a Labour Program Manager (83.8 percent), but not all did. Some LAOs indicated that they reported to an HRDC Manager or Director (13.2 percent) or to some other Manager (4.4 percent).

In interviews with labour program staff, labour key informants reported that the lack of understanding of labour issues by HRDC Managers was sometimes an issue. While Technical Advisors are available to provide technical advice to Managers and LAOs (as are the Analysts at Headquarters), neither the Analysts or Technical Advisors have direct authority over the LAOs. Conversely, Managers have no authority over the Technical Advisors, thus potentially creating unclear lines of authority and reporting.

In conclusion, issues relating to the integration of the Labour Program into HRDC are gradually being settled, but this aspect should be further monitored in coming years to ensure that the reorganization yields the most positive outcomes, particularly in the area of client service delivery, and that reporting structures are clear and effective. It is too early to determine the impact of these organizational changes, but this topic should be further examined in subsequent evaluations or ongoing reviews of the Labour Program.

3.2 Labour Affairs Officers (LAOs)

The Labour Program services are delivered by Labour Affairs Officers (LAOs) who have specific legislated powers under the Code. LAOs' duties lie mainly in dealing with complaints, educating workplace parties and mediating complaints of unjust dismissal. Their work involves a mixture of office work and traveling to worksites. LAOs can rely on technical advisors to obtain assistance on questions related to labour standards, such as technical development, legal precedents and national policies on interpretation.

Satisfaction With LAO's Roles: The survey explored the issue of job satisfaction, and the extent to which LAOs saw their roles and responsibilities in a positive light. With respect to roles within the Labour Program generally, LAOs not surprisingly demonstrated less satisfaction with administrative matters (only 27.4 percent reporting high satisfaction) and more with activities directly related to Part II (61.3 percent) and Part III (58.8 percent) of the Code. The level of satisfaction for self-study and learning roles was relatively low (30.3 percent overall and 28.6 percent for Part III), but as is discussed below, this may be mainly a reflection of LAO's lack of time for such activities, rather than an absence of interest in training (Display 3).

On their Part III-related activities, the survey results shed some light on LAO's views of their role in the application of labour standards. Generally, LAOs reported high satisfaction for activities related to dispute resolution in the workplace and educating workplace parties. For instance, LAOs reported high satisfaction with their role as mediators in the workplace, in such areas as: meeting employers about complaints (78.5 percent); mediation between employers and employees (76.2 percent); or meeting employees/unions about complaints (75.4 percent). Similarly, activities related to the education of employers and employees was seen positively, particularly: meeting employees/unions to provide information (67.3 percent); responding to employer's inquiries (67.2 percent); and providing seminars for employers (65.5 percent) (Display 3).

On the other hand, other activities more directly related to the enforcement of the Code received much lower satisfaction ratings from LAOs. This was the case for activities such as: inspections and spot checks (48.2 percent) or dealing with payment orders and appeals (46.9 percent) (Display 3 below).

Display 3
LAO's Satisfaction With Roles
Based on a Survey of a Sample of 74 LAOs

Satisfaction with work in the Labour Program*

(a) Program Administration	27.4%
(b) General Self-Study/Learning	30.3%
(c) Fire Code	30.0%
(d) Employment Equity	--
(e) Pay Equity	--
(f) Part I	--
(g) Part II	61.3%
(h) Part III	58.8%
Satisfaction with work on Part III*	
(a) Self-study/training related to Part III	28.6%
(b) Responding to employer inquiries	67.2%
(c) Providing seminars for employers	65.5%
(d) Inspections/spot checks	48.2%
(e) Meeting with employers about complaints	78.5%
(f) Meeting with employees/unions about complaints	75.4%
(g) Meeting with employees/unions to provide info.	67.3%
(h) Mediation between employers and employees	76.2%
(i) Dealing with payment orders, appeals, etc.	46.9%
(j) Reporting on Part III Activities	34.4%
(k) Other Part III Activities	50.0%

* A seven-step rating scale was used for this indicator, where 1 = not satisfied, 4 = adequate, and 7 = very satisfied. The percentages shown were obtained by totalling the proportion of responses indicating 5,6 and 7.

It is clear from these results that LAOs perceived their role considerably more as mediators and educators, rather than enforcement agents. This is consistent with the Labour Program Compliance Policy and is reflected in other questions of the survey. However, as will be seen in Section 4 of this report, many LAOs also believed that stronger enforcement activities are required for specific provisions of the Code.

Specialist-Generalist Concept: In most regions, LAOs reported in interviews that their jobs were assigned according to their interests and competencies. Generally, LAOs specialize in one specific area of the program, but they are also expected to maintain current knowledge of other regulations to supplement other staff (as needed) and to undertake various types of other assignments. This approach has been termed in the specialist-generalist concept.

Administrative data indicate that there has been a noteworthy shift in human resources from Part II activities to Part III over the last five years. While Part III activities occupied about 39 percent of the total time spent on LAO assignments in 1992, this proportion increased to about 49 percent in 1996-97.[25] This increase in Part III activities is largely attributable to the growth of the reactive function (investigation of complaints) of labour standards activities, which has absorbed a larger share of total resources in recent years, as further discussed in Section 4.2.2.

Some LAOs noted in interviews that the amount of knowledge required to work under Part II is quite substantial and that, if one does not use that knowledge on a regular basis, it is easy to lose it. This can be a concern, particularly for LAOs who work mostly on Part III for a certain period of time, and then have to return to Part II work. Survey results largely support this point, since about half of the LAOs surveyed indicated that the amount of technical details required to work on both Part II and Part III posed a problem to LAOs. In the same vein, about one third of LAOs indicated that dealing with both Part II and Part III was a significant source of stress in their work.

Training: The Labour Program has committed itself to ensure uniformity in the application of Part III of the Code through a national training program for LAOs.[26] Continuing training and self-learning activities is an important component of the specialist-generalist concept, as LAOs must keep abreast of a multitude of technical changes and developments in the jurisprudence and the interpretation of regulations.

As can be seen in Display 4, satisfaction among LAOs with their current skills and training was varied. High satisfaction was displayed in certain areas, particularly with respect to: communications (82.1 percent); investigation (75.0 percent); and counselling and education (74.6 percent). However, LAO's assessments of other aspects of their skills and training was much less positive, particularly in the area of: mediation (50.0 percent); Labour Program systems (49.3 percent); industrial relations (48.5 percent); and accounting and administration systems (47.1 percent). These results are particularly noteworthy in the area of mediation, since this activity represents a substantial component of LAO's work.

Display 4
Issues in LAO's Work
Based on a Survey of a Sample of 74 LAOs

Obstacles faced by LAOs	
Workload	79.1%
Lack of educational materials	14.9%
Lack of managers understanding Part III	22.4%
Other	46.3%
None of the above	13.4%
Is it a problem to work in many specialized areas?	
Yes, too much to know	32.8%
Yes, required skills cannot be found in one person	18.0%
No, not a problem	49.2%
Satisfaction with current skills and training*	
(a) Skills/training in industrial relations	48.5%

(b) Skills/training in accounting/admin. systems	47.1%
(c) Skills/training in law and the code	64.6%
(d) Skills/training in investigations	75.0%
(e) Skills/training in mediation	50.0%
(f) Skills/training in negotiation	58.7%
(g) Skills/training in communications	82.1%
(h) Skills/training in counselling/education	74.6%
(i) Skills/training in labour branch systems	49.3%
(j) Skills/training in other areas	25.0%
Significant stresses in administration of Part III**	
(a) Dealing with hostile employers	61.8%
(b) Extensive travel	10.9%
(c) Lack of technical support	43.9%
(d) Lack of management support	39.1%
(e) Dealing with Part II as well as Part III	36.5%
(f) Too large of a workload	76.5%
(g) Other significant stress administering Part III	91.7%

* A seven-step rating scale was used for this indicator, where 1 = very dissatisfied, 4 = adequate, and 7 = very satisfied. The percentages shown were obtained by totalling the proportion of responses indicating 5, 6 and 7.

** A seven-step rating scale was used for this indicator, where 1 = not stressful, 4 = adequate, and 7 = very stressful. The percentages shown were obtained by totalling the proportion of responses indicating 5, 6 and 7.

Generally, many concerns emerged from the Survey of LAOs as regards training. This was illustrated by the fact that LAOs reported low satisfaction overall for self-study and learning roles activities (as discussed above). One LAO described the problem as the following: "[the] lack of time permits only a quick scanning of material, bringing the adequacy of this `self-study' into question". Several other comments from the survey related this dissatisfaction to current workloads, which prevent LAOs from allocating enough time to self-study and training, thus making it difficult to maintain the high level of technical knowledge essential to their work. This may, the evaluators note, be a concern as regards consistency in program interpretations, an issue which emerged in several areas in the course of the evaluation.

Other Issues in LAO's Work: The most significant concern expressed by LAOs in relation to their work and activities under Part III was workload. Concerns over workload came out strongly in the survey results both as a substantial source of stress for LAOs and as an obstacle to effective delivery of services under Part III. Validity of these concerns is supported by administrative data indicating an increase in the number of Part III complaints over the last few years.

particularly in the fiscal years 1995-96 and 1996-97. In the two most recent fiscal years, the Labour Program received about 5,400 Part III complaints annually, compared to fewer than 5,000 complaints on average in the preceding years. Over the last ten years, the number of Part III complaints has increased more than twofold, with the most rapid increase occurring in the early 1990s. As noted, an additional concern is that this draws resources away from Part II work (see Section 4.2.2)

Also, many LAOs (43.8 percent) indicated that the lack of technical support was a significant source of stress in their work. Respondents pointed to the need for additional legal expertise, national policies and guidance on the interpretation of Part III provisions. Finally, another source of stress frequently mentioned by LAOs in relation to Part III work was dealing with hostile employers (61.8 percent). This illustrates that harmonious conflict-resolution is not always easily achieved and may explain why many LAOs called for stronger enforcement tools to deal with persistently uncooperative employers, as discussed below (see Section 4.2.3).

In conclusion, LAOs expressed significant concerns over certain aspects of their work, particularly training and skill development opportunities. This could point to the need to re-examine the issue of technical expertise in the application of the Code and the extent to which LAOs are provided with sufficient training and opportunities to develop and maintain diverse skills related to all aspects of their work.

Another significant concern expressed by LAOs which appears justified in light of a rapidly increasing number of Part III complaints is their workload. While severe resource constraints are typical of government operations in recent years, the rising number of complaints apparently resulting from the recession, and the impact of reorganization may have put substantial additional pressure on the Labour Program, particularly on field officers, and appears to have drawn resources from Part II work. Therefore, the extent to which current human resources can cope with the demand for services and adequately fulfill the mandate of the program may require careful monitoring in coming years.

3.3 Quality Assurance and Performance Standards

A growing issue in the context of the integration of labour services into HRDC operations is the development of service and performance standards. This includes the establishment of quality assurance mechanisms to ensure the consistency of services among regions and over time. As noted above, concerns were voiced by key informants that the integration of Labour Canada into HRDC could result in a decline of Senior Management commitment to labour issues and (in the long run) a deterioration of related services. To a large extent, these fears may be alleviated by strong Management commitment to specific service and performance standards and the implementation of an effective quality control mechanism to ensure that maximum efforts are made to reach and maintain these standards.

Labour Program Commitment to Quality Assurance: The Labour Program has recognized the importance of quality assurance in its operations. Recently, a Working Group studied the issue and submitted recommendations for a quality assurance program covering both National and Regional operations.[27] This formal quality assurance program would review a sample of up to 10 percent of all assignments and cover such issues as: the documentation of LAO activities, the application of the Code and Compliance Policies, data integrity, assignment outcomes and technical support.

While the recommendations of the Working Group have not been implemented as of writing, it has been reported that quality assurance similar to the proposal put forward by the Working Group already exists in several regions of the country. The lack of a formal national quality assurance, however, is certainly a concern with respect to the monitoring of consistent service delivery and enforcement activities — which is an important prerequisite for an effective Compliance Policy as adopted by the Labour Program.[28]

Currently, many LAOs reported that the lack of consistency in the application and interpretation of labour standards was a problem, with some 37.3 percent LAOs indicating this area as a significant problem and 47.8 percent as a moderate problem. In contrast, only 14.9 percent of LAO respondents believed that the lack of consistency in the application of the Code was only a minor problem.[29] Some LAOs believed that "it is difficult to determine policies or interpretations on complicated issues" or that "the lack of focus or quality assurance leads to inconsistent application".

An illustration of potential problems in interpretation which could be partly alleviated by quality assurance and policy development is related to determining who is an employee for the purpose of the Code. Many LAOs (57.4 percent) identified this aspect of their work as a significant obstacle to the effective delivery of Part III services.[30] An effective National quality assurance program could help in identifying problems in the application of the Code and in pointing out areas where additional standards and policies are required.

Performance Measurement: In a related vein, the administration of the program has recently approved performance standards in the delivery of Labour Code services in HRCCs. Two of these standards deal directly with Part III activities. The first one sets a target of 75 percent of complaints of unjust dismissal being settled by LAOs, without recourse to adjudicators. This target seeks to avoid significant costs being incurred by the Labour Program, as the adjudication of complaints of unjust dismissal can draw significant resources away from other operations. The second standard sets the goal that 80 percent of all complaints relating to Part III of the Code (with the exception of unjust dismissals) be closed or resolved within 120 days of the filing of the complaint.

Measuring performance of LAOs is a difficult task, according to most of the key informants. The number of assignments completed by each LAO within a specific period of time may be one indicator of performance, but it fails to take into account the difficulty of assignments and the quality of the work. Focusing on a single aspect of performance (such as speed) could produce unintended outcomes, such as the deterioration of other facets of service delivery. For instance, one LAO observed that "[current] targets do not necessarily reflect the difficulties encountered in resolving disputes with First Nations clients which form the bulk of Part III complaints at this office." Many informants suggested that the only meaningful way of conducting performance measurement is by taking a more detailed look at other aspects of LAO's work.[31]

Overall, the evaluation points to the need for continuing development of quality assurance in the delivery of the Labour Program. It should be noted, however, that quality assurance may require significant resources, particularly if the Working Group recommendation for a target review of 10 percent of all assignments is implemented. It is important to ensure that this activity is sufficiently resourced, and it is unclear if the Labour Program can cope with this additional demand given current constraints in human resources. Also, quality assurance will require that an effective mechanism be established to identify and implement corrective actions on an ongoing basis when problem areas are identified through the quality assurance system.

There is also a need for the Labour Program to pursue its development of performance standards to provide a more adequate coverage of different facets of LAO's work. Above all, it must be clear from an organizational point of view that quality of services is as important as performance in the delivery of the program. The development of a more comprehensive set of service and performance standards could be completed in conjunction with the quality assurance system discussed above.

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4. Labour Program Services and Enforcement Activities

4.1 Compliance With the Code

4.1.1 Theoretical Aspects of Compliance

Compliance issues are crucial elements in the design and implementation of laws such as those encompassing labour standards. The extent to which the laws have their intended effects will ultimately depend on the extent to which compliance occurs. Both theory and empirical evidence suggest that parties respond to a wide-range of considerations, including economic incentives and concepts of equity and fairness. It is useful to consider these factors and how they may influence compliance.

Firstly, economic models of compliance treat the decision to comply with labour laws as a rational response of private actors to economic incentives (i.e., the costs and benefits) involved with compliance versus non-compliance. In the case of the labour standards legislation examined here, the costs of compliance include the direct increase in labour costs associated with such factors as higher minimum wages, increased overtime premiums, and advance notice of termination[32] or severance pay. They can also include any indirect costs associated with such factors as the early loss of the best workers in the case of advance notice of a group termination, and "ripple effects" from minimum wages that lead to wage increases elsewhere in the wage structure.

The costs of non-compliance depend upon the direct and indirect penalties associated with non-compliance. The expected direct penalties involve various components associated with the probability of being penalized and the expected penalty if penalized. The indirect penalties involve such factors as adverse publicity that can affect sales, recruiting or morale.

Some economic models of compliance can lead to the somewhat counter-intuitive conclusion that, other things being equal and given normal risk aversion, non-compliance is more likely for individuals or organizations that are wealthier.[33] This is so because they can afford the "gamble" or risk associated with a non-compliance strategy; that is, they can afford any high penalty associated with the low probability of being detected. Poorer individuals or organizations cannot afford such risks and hence are more likely to follow the risk averse strategy of complying with the law.

However, poorer individuals or organizations are more likely to be credit constrained and unable to borrow in capital markets. Hence, especially if they have expectations that their situation may improve in the future, they may engage in non-compliance to save on current cost and accept the risk of being penalized in the future.[34] In essence, they use non-compliance as a "source of credit." This strategy is likely to be found in many of the growing number of small businesses and in periods of economic downturn. It would especially be the case under the risk of bankruptcy to the extent that the penalty is simply added to the list of creditors. In essence, firms that are at risk of bankruptcy may engage in an "end-game" strategy whereby they are willing to engage in the risk of non-compliance since it does not add much to their downside risk (if they are not going to be there to pay a penalty).

Economic models of compliance may also overlook the difficulty for employers of measuring or determining the benefits side of the cost-benefits equation. Many aspects of labour standards may be seen by employers as having positive benefits (such as the fact that paying overtime may increase employee satisfaction), but the dollar value of such benefits is difficult to weight against the dollar costs of achieving them.

Secondly, beyond economic models of compliance, other factors may affect employers' behaviours in their decision to comply with labour standards regulations. Socio-psychological models of compliance,[35] for instance, emphasize that compliance is more likely when the parties perceive the regulation to be appropriate and fairly applied to others in similar situations.

This suggests that it is important to inform and educate the parties about the rationale for the legislation and to highlight any positive effects that may result. It is also important to ensure that the regulations are uniformly applied and enforced, especially in situations where they apply to competitors. This raises the question of whether Canadian employers are more likely to engage in non-compliance if they are increasingly compelled to compete with other countries where labour standards are not as stringent or not enforced.

Thirdly, a human resources perspective may influence compliance with labour standards. Under this perspective, providing good employment conditions and increasing employee satisfaction may simply be seen as the correct way to manage people and organizations. In this case, compliance with labour standards may be somewhat incidental to other objectives, and not assessed from a cost perspective in the usual way.

In conclusion, these theoretical considerations illustrate that compliance with labour standards is a complex phenomenon which rests partly, but not exclusively, on economic considerations. Many other factors may affect compliance and it is possible from a policy perspective to achieve greater compliance by designing appropriate strategies and responses to affect workplace behaviours.

The next section of this report will examine non-compliance with the Canada Labour Code from an empirical perspective (what is the actual level of compliance/non-compliance) and discuss potential correlates of non-compliance and the responses available to the Labour Program to affect employer's behaviours in the area of labour standards.

4.1.2 What Does the Evidence Tell Us About Compliance?

Empirically measuring the actual level of compliance with labour standards is a complex task. The Labour Program maintains a data base of recorded labour standards complaints and violations, but it is widely known that reported violations of the Code may only show the tip of the iceberg of non-compliance. The literature suggests that non-reported violations of the Code are frequent, and the extent of the problem may be hidden by the fact that many infractions of the Code can be the result of voluntary bargaining, or occur through sheer ignorance of the parties.

Evidence From the Literature: The little factual evidence existing on the topic suggests that non-compliance is common for many aspects of labour standards. In Ontario, for example, where permits were required for long hours beyond the standard workweek, previous research estimated that about 24 "illegal" hours were worked for every "legal" hour granted under a permit — a non-compliance rate of about 96 percent.[36] Non-compliance (and non-coverage) with minimum wage legislation in Ontario has been estimated as ranging from 20 percent[37] to 45 percent, [38] with extensive non-compliance also documented in the United States.[39] Non-compliance rates of 10 to 20 percent have also been estimated for overtime provisions in the United States.[40]

Most employment standards violations occur at the point of separation[41] with employees not receiving wages owed or severance pay, suggesting substantial non-compliance over issues of termination. Clearly, the literature indicates that non-compliance may be high and issues of compliance merit particular attention with respect to such standards as hours of work and overtime, minimum wages and termination, and that non-compliance rates may be relatively high overall.

Administrative Data: The Labour Program receives some 5,000 complaints every year on labour standards, about one third of which result in recorded violations of Part III of the Labour Code. It is important to note that this does not necessarily indicate that all other complaints are unfounded, as LAOs will sometimes not record a violation when the matter is not litigious or when employers agree to correct the situation immediately.[42] Moreover, a large proportion of complaints relate to unjust dismissals where LAOs serve as mediators between employers and employees, rather than investigating potential violations of the Code.

Nonetheless, this indicates that about one formal complaint is received every year for every 200 Federal jurisdiction employees, while the ratio of recorded violations is about one for every 600 employees.[43]

The majority of complaints relate to two specific areas of the Code, namely payment of wages (about 35 percent of total) and unjust dismissals (about 28 percent). Consistent with the literature reported above, other complaints relate primarily to standards dealing with the termination of employment, particularly with respect to the notice of individual termination and severance pay. Other complaints in the areas of vacations and hours of work represented respectively less than 5 percent of the total number of complaints received every year.

The above data must be interpreted with caution. It is hardly surprising that the bulk of employee complaints under Part III relate to wage and termination issues, as these are the provisions of the Code that often evoke strong employer-employee disagreements, and are the most likely to be litigious. It does not, however, indicate that other components of the legislation (particularly the hours of work provisions) are well-complied with. On the contrary, the evidence from the literature cited above and survey results presented below would suggest that non-compliance with respect to hours of work and other provisions is also widespread.[44]

Results of the Employer Survey: The Survey of Employers conducted as part of this evaluation examined the issue of non-compliance from several different perspectives. Indicators developed for the survey were not expected to produce a definitive measure of compliance-non-compliance. Rather, the objective was to contribute to build a better understanding of how labour standards are applied in Federally-regulated workplaces and particular problem areas for the Code, and to test a survey approach to measuring compliance/non-compliance.

This effort appears to have been a success, with a wide range of insights resulting from it. Generally, survey results suggest that non-compliance with certain provisions of the Code is much more widespread than administrative data indicates. Moreover, as will be discussed below, a major factor in non-compliance appears to be the lack of understanding of labour standards by employers.

Employer Awareness of Part III Provisions: The first measure of non-compliance examined simply asked employers to indicate if, in their opinion, current employment practices of their firms were above, below or match labour standards under Part III of the Labour Code. Not surprisingly, very few employers indicated being in non-compliance with the Code (varying between 0-5 percent), but a very substantial percentage of employers reported not knowing whether they complied with the regulations or not. Employer lack of awareness was particularly high for certain areas of the Code, particularly: protection against sexual harassment (38.1 percent); severance pay (36.2 percent); and maternity and parental leaves/reassignments (26.3 percent) (Display 5).[45]

A Measure of Actual Employer Compliance: The second measure of non-compliance was based on responses from employers on their workplace practices relating to specific areas of the Labour Code. The objective was not to measure incidence of non-compliance (this would require an estimate of the number of situations of non-compliance), but simply to create a "proxy" of the percentage of firms reporting practices apparently in non-compliance. Given the complexity of certain aspects of the Code, it was not expected that a questionnaire-type measure would be definitive, but it was seen as providing a broad indicator of the extent of non-compliance in the population of Federally-regulated firms. The results presented in Display 6 indicate a range of non-complying firms for each labour standard covered by the survey. This range is based on an estimate of the percentage of firms reporting actual or usual practices inconsistent with the Code in 1996 and bears no exact relationship to the number of violations or the number of employees whose rights may have been denied.[46]

Display 5
Employer's Perceptions of Compliance
Based on a Survey of a National Random Sample of 618 Employers

How firm's practices compare to Labour Standards		
(a)	Hours worked per week when overtime begins	
	Don't know	19.4%
	Less than Part III Standard	5.0%
	Matches and/or exceeds Part III Standards	75.6%
(b)	Overtime pay rate	
	Don't know	20.9%
	Less than Part III Standard	4.4%
	Matches and/or exceeds Part III Standards	74.8%
(c)	Minimum wage	
	Don't know	11.1%
	Less than Part III Standard	.0%
	Matches and/or exceeds Part III Standards	88.9%
(d)	Equal Wages	
	Don't know	16.4%
	Less than Part III Standard	1.1%
	Matches and/or exceeds Part III Standards	82.4%
(e)	Annual vacations	
	Don't know	10.6%
	Less than Part III Standard	1.2%
	Matches and/or exceeds Part III Standards	88.2%
(f)	Statutory holidays	
	Don't know	10.0%
	Less than Part III Standard	1.4%
	Matches and/or exceeds Part III Standards	88.7%
(g)	Maternity/parental leave reassignment	
	Don't know	26.3%
	Less than Part III Standard	.3%

	Matches and/or exceeds Part III Standards	73.4%
(h)	Bereavement leave	
	Don't know	20.0%
	Less than Part III Standard	2.1%
	Matches and/or exceeds Part III Standards	77.9%
(i)	Individual terminations	
	Don't know	22.9%
	Less than Part III Standard	2.0%
	Matches and/or exceeds Part III Standards	75.2%
(j)	Group terminations	
	Don't know	61.0%
	Less than Part III Standard	.9%
	Matches and/or exceeds Part III Standards	38.1%
(k)	Severance pay	
	Don't know	36.2%
	Less than Part III Standard	3.9%
	Matches and/or exceeds Part III Standards	59.9%
(l)	Sick leave/work-related	
	Don't know	24.6%
	Less than Part III Standard	2.3%
	Matches and/or exceeds Part III Standards	73.1%
(m)	Timely payment of wages	
	Don't know	10.2%
	Less than Part III Standard	.3%
	Matches and/or exceeds Part III Standards	89.0%
(n)	Policy on sexual harassment	
	Don't know	38.1%
	Less than Part III Standard	2.9%
	Matches and/or exceeds Part III Standards	59.0%

This distinction is important because non-compliance was found to be higher in smaller firms and employment in Federally-regulated industries is (numerically) concentrated in a relatively small number of very large corporations.[47]

Consequently, the percentage of all Federal sector workers exposed to sub-standard employment conditions is certainly considerably smaller than what might be suggested by the percentage of employers who are in non-compliance with any given provision.

The results suggest that non-compliance is very high, particularly for some standards where more than 20 percent of firms reported practices inconsistent with the Labour Code.[48] Non-compliance was found to be most widespread for normal hours of work and severance pay regulations. Many firms also reported that their policies did not allow for bereavement leaves or sickness leaves, although the survey did not measure whether requests were made by employees in these areas. Also, the vast majority of employers reported not having a policy on sexual harassment, although this is a requirement of the Code.

On the whole, employer survey results suggest that lack of awareness of Part III is a major driving force behind non-compliance. Many employers reported that they were unaware of Part III standards, while others did not understand how it applied to them. As one Federal-sector employer stated: "[I am] not sure if we need Federal intervention, but [we] are satisfied with the Alberta regulations". Most firms reporting practices inconsistent with the Code believed that their practices matched or were above labour standards, or reported ignoring if they met the requirements of the Code. However, there is also evidence of deliberate non-compliance among some employers. This is illustrated by the fact that some employers indicated knowing that their practices fell short of Part III requirements, particularly in the areas of normal hours of work (5.0 percent); overtime pay rate (4.4 percent); and severance pay (3.9 percent) (Display 5).[49]

Display 6
Range of Non-Compliance With Specific Labour Standard Based on Data from a Survey of a National Random Sample of 618 Employers

List of Labour Standards	Range of Employers Reporting Practices Inconsistent With Part III of the Labour Code*
Non-compliance in 1996**	
Maximum hours of work	10-20%
Normal hours of work	>30%
Vacations	<10%
Individual terminations	10-30%
Severance pay	20-30%
Maternity leave	<10%
Firms general policy on following aspects***	
Payroll practices	10-20%
Sick leaves	40-50%
Bereavement leave	40-50%
Sexual harassment	70-80%
Worker's compensation coverage	<10%

* As indicated by responses to the employer survey.
** Employer responses indicated that the firm had been in non-compliance with this provision at least once in 1996.
***Employer responses indicated that the general practices or policies of the firm were not in compliance with the Code, although non-compliance may not have occurred in 1996 (e.g. if no request for sick leaves were made or refused).

Measure of Overall Compliance with the Code: Survey responses from employers were used to compute an overall indicator of compliance for each firm included in the sample. This indicator represents a "proxy" of the firm's general approach to labour standards. It was used in a number of analyses reported throughout this report.[50] The indicator of compliance was based on a score system.

Employers' responses indicating non-compliance with any of the 13 items of the Code measured in the survey were attributed a value of "-1", while responses indicating compliance were attributed a value of "+1". Thus the total score for each employer included in the survey varied from -13 (always in non-compliance) to +13 (always in compliance).

By this measure, only about 25 percent of employers were in compliance with most provisions of Part III, with about half of all employers being more compliant than not, and about 25 percent generally likely to be in non-compliance with most provisions.

Correlates of Non-Compliance: The extent to which non-compliance with labour standard regulations is a predictable phenomenon depends on whether it can be linked to specific employer characteristics. The correlation between the overall compliance score (discussed above) and various employer characteristics was examined to determine the extent to which compliance and non-compliance with the Code can be predicted and explained.

Overall, the results indicate that compliance with labour standards is correlated with a number of characteristics in a statistically significant manner.[51] Not surprising, unionization was correlated with higher levels of compliance (r = .30, see Appendix D, Display D.8 for details). This is probably true by virtue of the fact that most collective agreements provide for employment conditions generally superior to those of Part III, at least in a number of areas. Also, unionized employers are probably more likely to have a better structured and developed human resources function. In a related vein, the use of human resources specialists by an employer was also found to be correlated with higher compliance with the Code (r = .22), source = analysis of employer survey data.

Size of the employer organization was also found to be correlated with compliance, with larger firms being more likely to be in compliance with the Code (r = .15) (see Display D.8, Appendix D). This is consistent with conventional wisdom, since smaller firms are more likely to have no or little administrative support (human resources staff, accounting, legal experts) and, consequently, to ignore the existence of specific regulations.

Results also indicate that firms that had been in operation for longer periods were more likely to comply with the regulations than newly created businesses (r = .24) (tabulation from employer survey). This could be because these firms are more likely to have experienced managers and better administrative structures. Moreover, newly created firms are more likely to be small businesses, so that these correlations may be related.

On a sectoral basis, employers from the trucking industry were found more likely to be in non-compliance with the Code than other industries, although the correlation is modest (r = .17, see Appendix D, Display D.8 for details), and some other sectors were also high in non-compliance. This is consistent with information reported in interviews where informants indicated that small trucking companies faced particular challenges in complying with labour standards. Trucking comprises a large proportion of small firms operating on very little capital in a highly competitive industry. This points to the need to review particular challenges faced by this sector and how their concerns can be addressed in the future.

Overall, however, these results do not indicate strong predictability of non-compliance-compliance behaviours, given (in some cases) the moderate size of statistical correlations. This may simply reflect the fact that non-compliance with respect to some of the Code provisions is so widespread that it is not closely related to specific firm characteristics. This would be consistent with the view that the lack of awareness of labour standards regulations is extensive in the population of Federally-regulated employers, and that this underlying factor makes it difficult to predict behaviours on the basis of other characteristics.

LOIS Data: The survey compliance indicator was compared to administrative data extracted from the Labour Operations Information System (LOIS) and analyzed in conjunction with a number of employer characteristics. First, results indicate that the survey compliance indicator is correlated in a statistically significant way with the rate of violations recorded in LOIS for specific firms,[52] but not with the rate of complaints.

This is consistent with information provided to the Evaluation Team on the data contained in LOIS.[53]

Secondly, other analyses were conducted to determine whether the correlates of non-compliance discussed above were equally correlated with the rates of violations or complaints in LOIS for each firm included in the survey. In this case, regression analyses were used to control other variables in the analysis. The results indicate that while reliable predictions are possible (see Appendix D, Section D.3.3), few employer characteristics discussed above were strong predictors of the rate of violations or complaints in LOIS.

A similar result was obtained for a discriminant analysis as noted in Appendix D, Section D.3.3). These results suggest that most firm's characteristics correlated with non-compliance in the survey cannot precisely predict violations of the Labour Code recorded in LOIS. Exceptions were unionization, belonging to the trucking industry, and high involvement in exporting, which were found to be modest predictors of the rate of violations.[54]

Sectoral Variations: The issue of sectoral variations merits further comments. The trucking industry was, as expected on the basis of prior data, to be high in violations, but was not the only sector high in violations: the grain sector was also high in violations. However it is noteworthy that the grain sector had a higher percentage of employers who reported violations (62.4%) than did the trucking sector (49.8%). In terms of compliance, trucking was not alone in reporting practices which were non-complaint. The air transportation sector was similar to trucking in compliance/non-compliance. First Nations were the next most non-complaint in actual practices[55] with grain and communications not far behind (see Appendix D, Display D.6 to D.8).

Significantly, the discriminant analysis suggested that past violations were a meaningful predictor of current non-compliance, suggesting that, at the present time the program has a high rate of persistent non-compliers.

Firms Not Known to the Labour Program: At the start of the study, it was hypothesized that employers not known to LOIS would likely be high in Part III compliance, as they would have never had complaints registered against them. Yet, as the study proceeded, a variety of other factors came to the fore as potential reasons why employers might never have had complaints registered. For example, statistically speaking, smaller employers might be less likely to experience complaints, simply because of having fewer employees. In a similar vein, newer operations (an important part of the population of firms not known to the Labour Program), would have had fewer years in which to experience complaints. The proposition that LOIS and non-LOIS employers would be statistically different in compliance levels was tested.

To this end, LOIS and non-LOIS employers were compared as to compliance with Part III provisions as measured by the employer survey. The results (Display 7, below), suggest that these two groups of employers are not very different at all in terms of compliance with Part III. Generally, LOIS employers were somewhat more likely to be in compliance than non-LOIS employers, by 70.7 percent as compared to 66.4 percent. However these differences — the reverse of what was originally hypothesized, were not statistically significant.

Display 7
LOIS and Non-LOIS Employers by Survey Reports on Compliance

Survey Statistics on Compliance	LOIS Employers	Non-LOIS Employers
Mostly in compliance	70.7%	66.4%
Mostly in compliance of indeterminate	29.3%	33.6%
Chi-square ns at P, .01.		

Overall, these results seem more consistent with the notion that compliance is strongly affected by information — LOIS employers, through periodic contacts with the labour program, are more likely to be aware of requirements, and thus more likely to comply.

This is reaffirmed by the high proportion of non-LOIS employers surveyed, 26 percent, who reported only learning that they were Federally regulated, through the evaluation survey contacts. This suggests that extensive non-compliance occurs beyond the view of Labour Program. Of course, then, if the program's mandate were to ensure compliance nationally these results would point towards significant new work to be undertaken by the Labour Program.

In conclusion, the survey generally provides support for the view that non-compliance with the Code is widespread in a number of areas, particularly for normal hours of work and severance pay provisions. Lack of awareness may be a major driving force behind non-compliance with the Code, but there are also some indications that deliberate non-compliance occurs for a small number of firms. Compliance with the Code can be predicted from such factors as firm's size, presence of human resources specialists, unionization, and number of years of operation. Generally, LOIS data were seen to significantly underestimate the extent of non-compliance with the Code.

4.2 Labour Program Promotion of Compliance

4.2.1 Types of Part III Interventions

Labour standards enforcement mechanisms can involve various degrees of adversarialism and co-operation. Traditionally, enforcement of labour standards was regarded as an adversarial concept, but in today's workplace and under global competition, there is considerable agreement that adversarial approaches can be very costly and not conducive either to a high commitment workforce or to high-performance workplaces. Efforts to foster co-operation in businesses abound (e.g. alternative dispute resolution, joint labour-management committees, employee involvement) and such an environment may be favourable to harmonious conflict-resolution of labour standards issues in the workplace.

Priorities in Program Delivery: Consistent with these views, the Labour Program has established a Compliance Policy to provide guidelines in the delivery of services and enforcement activities under the Code. According to the Compliance Policy, the Labour Program is committed to promote compliance mainly through the provision of information and education, rather than strict enforcement, the imposition of fines and penalties etc. The two-fold purpose of the policy is to ensure (i) consistent, effective and cost-efficient compliance activities; and (ii) graduated measures to deal with non-compliance.

The surveys collected the views of employers and unions on what should be the main priorities for the Labour Program in the administration of Part III of the Canada Labour Code. Not surprisingly, these parties provided views highly reflective of the traditional interests of each group in the application of labour standards. The survey of LAOs provided a complementary perspective.

Employers were highly supportive of priorities in the areas of education and voluntary compliance. Indeed, 57.9 percent of employers indicated that the provision of educational services was a high priority for the program. Two other areas were considered to be a high priority by about one third of the employers, namely the mediation of disputes between employers and employees and the investigation of complaints or potential violations.

The one area which was not seen as a key priority by employers was the conduct of inspections and spot checks by LAOs (Display 8). There is a clear preference among employers for voluntary compliance and a reactive approach to compliance.

Display 8
Priorities for the Labour Program
Based on Survey of a National Random Sample
of 618 Employers and 73 Unions

Employers preferred priorities for delivery of Part III Services*	
(a) Providing info./education services	57.9%
(b) Conducting inspections/spot checks	6.3%
(c) Mediating disputes between employers and employees	29.7%
(d) Investigating complaints or potential violations	30.2%
Unions preferred priorities for delivery of Part III Services*	
(a) Providing info./education services	50.7%
(b) Conducting inspections/spot checks	46.8%
(c) Mediating disputes between employers and employees	39.3%
(d) Investigations disputes between employers and employees	64.5%

*A three-step rating scale was used for this indicator, where 1 = low priority, 2 = medium priority, and 3 = high priority. The percentages shown were obtained by the proportion of responses indicating 3.

On the other hand, union respondents see the investigation of complaints (an enforcement stance) as the key priority for the Labour Program. About two-thirds of union representatives surveyed indicated this activity as a high priority. Other key roles of the program according to union respondents include the provision of information (50.7 percent) and the conduct of inspections and spot checks (46.8 percent). Only about one-third of union respondents also saw the mediation of disputes (39.3 percent) as a key role. Clearly, unions are more supportive than employers of the enforcement function of the Labour Program, while educational efforts are also generally seen as an important priority.

Education and Information: Education and information on employment standards and their purposes can be important in facilitating compliance. Voluntary compliance is difficult if employers do not know the law, and employees do not know their rights. The information problem is compounded given today's trend to smaller workplaces, decentralized decision making, non-standard employment and workforce diversity.

Lack of information has been identified as an important source of non-compliance in a number of jurisdictions,[56] and this evaluation has also identified the lack of understanding of labour standards as a significant factor in non-compliance with Part III of the Canada Labour Code.

Survey results reported above indicate that many employers are simply unaware of whether their current employment practices meet Part III requirements. A small portion of covered employers (about 12 percent) were not even aware they were covered by Federal labour standards.[57] In fact, many comments on the employers survey expressed this view: as one employer commented: "What is Part III? and where do you get information on it?" Unions echoed a related problem, as one union representative commented "Further information should be given to all employees of federally regulated enterprises".

Lack of information (in itself) may indicate that further education efforts could yield positive outcomes in terms of compliance. However, the question remains as to whether labour standards raise sufficient interest and concerns within the workplace to ensure that employers and employees are going to use new or existing educational resources.

Generally, employers differ in information needs when asked which areas of the Code they would like to receive more information on. About 60 percent of the respondents indicated no need for additional information on any of the various items covered by Part III of the Code. But significant minorities of employers identified specific areas where information was needed. Information needs in relation to specific labour standards reported by more than 20 percent of employers included: policy on sexual harassment; individual terminations; sick leave/work-related illness; and severance pay (Display 9). These results suggest important strategic and targetting issues for increased education and awareness efforts.

On this issue, the fact that many employers indicated no information needs with respect to labour standards, while non-compliance appears widespread, provides some indication that passive educational programs (i.e., simply making the information available) may not by itself achieve full compliance with Part III of the Canada Labour Code, since many employers are not likely to seek the information. Thus education may have to be coupled with more active interventions in workplaces in order to produce changes and to effect compliance.

Display 9
Employer's Reported Needs for Information Based on a Survey of a National Random Sample of 618 Employers

Need for more or better information	
(a) Hours worked per week when overtime begins	19.7%
(b) Overtime pay rate	17.6%
(c) Minimum wage	16.4%
(d) Equal wages	16.2%
(e) Annual vacations	18.0%
(f) Statutory holidays	18.0%
(g) Maternity/parental leave reassignment	17.2%
(h) Bereavement leave	19.5%
(i) Individual terminations	23.5%
(j) Group terminations	17.7%
(k) Severance pay	27.6%
(l) Sick leave/work-related illness	23.4%
(m)Timely payment of wages	12.2%
(n) Policy on sexual harassment	24.3%
(o) No need for additional information	60.4%

Labour Program Services to Employers: The Survey of Employers examined the type of services received by firms and the level of satisfaction with these services. About half of the employers indicated that their firm had not had any contact with the Labour Program regarding labour standards in the previous three years. This is not surprising considering the limited resources of the Labour Program.

particularly relative to the number of Federally-regulated firms.

The other half of employers reported receiving various services from the program. Of these, about one third of the firms requested information on labour standards at one point or another in the last three years. About one fifth of the employers surveyed indicated that they had received a brochure from the program on labour standards, while only about one tenth of employers indicated that LAOs had investigated complaints, negotiated settlements, or provided counselling to representatives of their firm (Display 10).

Display 10
Labour Program Services Received by Employers and Satisfaction with Services
Based on a Survey of a National Random Sample of 618 Employers

Firms' experience with LAOs and Part III	
LAOs provided a seminar	1.6%
LAOs provided brochures	19.1%
LAOs provided counselling	10.8%
Requested info. from labour program/LAOs re Part III	33.4%
LAOs identified non-compliance when reviewing records	5.1%
LAOs visited firm to investigate employee complaint	10.4%
LAOs mediated-negotiated settlement of employee complaint	12.5%
LAOs found firm was in the wrong	5.6%
LAOs investigating found complaint was unfounded	11.9%
LAOs wrote order to pay employee wages/severance pay	4.3%
LAOs identified non-compliance that was remedied	5.0%
Had no contacts with labour branch or LAOs	52.4%
Satisfaction with LAOs and aspects of Labour Program*	
(a) Clarity/helpfulness of information	64.5%
(b) Fairness of the LAO(s)	60.4%
(c) Time taken to solve problem(s)	57.0%
(d) Amount of extra paperwork required	42.7%
(e) Outcome of investigation(s)	53.1%
(f) Outcome of mediation(s)	52.9%
(g) Payment orders given	39.9%
(h) Consistency between LAOs	56.5%

* A seven-step rating scale was used for this indicator, where 1 = not satisfied, 4 = average, and 7 = very satisfied. The percentages shown were obtained by totalling the proportion of responses indicating 5, 6 and 7.

Satisfaction With Services: Employers indicated a reasonable level of satisfaction with some aspects of the LAO's work, particularly the clarity and helpfulness of the information provided (64.5 percent) and the fairness of LAOs' decisions (60.4 percent).[58] Other aspects of the LAO's work more directly related to enforcement activities were not as highly regarded by surveyed employers. For example, consistency between LAOs was rated satisfactory by 56.5 percent of employers.[59] Employer satisfaction was particularly lower with respect to the amount of extra paperwork (42.7 percent) involved when dealing with the Labour Program and orders for payments of an employee's wage (39.9 percent).

LAO's Views on Compliance: For specific labour standards contained in the Code, LAOs were asked if they believed that employers had significant difficulties complying with the provisions and, if so, what type of remedies would facilitate compliance. LAOs were asked to choose among three types of remedies, namely simplifying the Code, better education or stronger enforcement activities.

Generally, LAOs rated education as the best "remedy" for non-compliance for the vast majority of Part III provisions. This was particularly true for certain Code items such as: statutory holidays (48.6 percent); severance pay (44.6 percent); sickness leave (44.6 percent); protection against sexual harassment (41.9 percent); and maternity and parental leaves/reassignments (41.9 percent). Education, however, was not the only remedy indicated by LAOs, and a number of them reported that stronger enforcement activities and penalties were sometimes the most effective way to achieve compliance. This was particularly the case, LAOs noted, for provisions on the timely payment of wages (58.1 percent), individual terminations (41.9 percent), overtime pay rate (37.8 percent) and normal hours of work (36.5 percent) (Display 11).[60]

Display 11
LAO's Preferred Responses to Non Compliance
Based on a Survey of a National Random Sample of 74 LAOs

LAO's Views on How to Remedy Non-compliance	No Serious Problems	Simplifying the Code	Better Education	Stronger Penalties
(a) Normal hours of work	23.0%	13.5%	37.8%	36.5%
(b) Overtime pay rate	31.1%	8.1%	29.7%	37.8%
(c) Minimum wage	73.0%	1.4%	13.5%	1.4%
(d) Equal wages	21.6%	5.4%	25.7%	12.2%
(e) Annual vacations	52.7%	5.4%	28.4%	14.9%
(f) Statutory holidays	10.8%	36.5%	48.6%	20.3%
(g) Maternity/parental	33.8%	6.8%	41.9%	9.5%

leave/reassignment				
(h) Bereavement leave	58.1%	2.7%	28.4%	2.7%
(i) Individual terminations	23.0%	8.1%	39.2%	41.9%
(j) Group terminations	29.7%	14.9%	36.5%	9.5%
(k)Severance pay	24.3%	5.4%	44.6%	28.4%
(l) Sick leave/work-related illness	20.3%	13.5%	44.6%	21.6%
(m) Timely payment of wages	24.3%	2.7%	23.0%	58.1%
(n) Policy on sexual harassment	35.1%	2.7%	41.9%	9.5%

Simplifying the Code was perceived as the best remedy to improve compliance by a sizeable number of LAOs only with respect to statutory holidays (36.5 percent). Several LAOs indicated that current requirements with respect to statutory holidays were too complex, involving too many criteria to determine the entitlement of workers (e.g. continuous operations, averaging of hours, etc.). One LAO commented that "employers cannot be bothered figuring out what category each employee belongs to and usually pay out one flat rate in the hope that this is enough".

In conclusion, these results illustrate the complexity of designing an effective strategy for interventions in the workplace. Employers and unions have different perceptions of the desirable priorities of the Labour Program. While employers indicated a need for more education and voluntary compliance, union representatives view the investigation of complaints and enforcement as important aspects of the program.

On the one hand, education could address the serious lack of employers' awareness of labour standards, but if it is not coupled with more active forms of interventions, the impact of educational efforts may be insufficient to produce a good level of compliance. An effective intervention strategy could mean having different types of approaches, geared towards different employers and labour standards. Proactive intervention is a key element of this equation, as is more fully discussed below.

4.2.2 Proactive and Reactive Interventions

Allocation of Resources: Activities of LAOs are divided between "proactive" and "reactive" interventions. The distinction is that reactive activities are client-driven, while proactive assignments are more generally targeted by the Program to promote compliance with Part III of the Code. Proactive interventions include: general inspections, individual counselling and seminars or promotion. Reactive interventions are mainly the investigation of labour standards complaints and the mediation of complaints of unjust dismissal. Education and voluntary compliance are guiding principles for both proactive and reactive activities.

Administrative data indicate that the bulk of LAO's activities under Part III relate to reactive interventions in response to complaints. These data show that, on the whole, LAOs spent more than 85 percent of their total Part III assignment time on reactive activities. Moreover, between 1992-97, the reactive function of the Labour Program under Part III has grown substantially, while proactive activities have been decreasing. The total time spent on reactive assignments under Part III increased by 27 percent between 1992-97, while proactive activities declined by 9 percent.

Impacts on Part II: As noted above (see Section 3.2), the growth of the reactive function has also impacted on the distribution of resources within the overall activities of the Labour Program. LOIS data show that the increase in Part III activities is matched by an almost corresponding decrease in safety and health (Part II) proactive activities, which have historically corresponded to the bulk of Part II work. This shows that compliance issues in relation to Part III can also impact on other components of the Labour Program, such as occupational safety and health or fire prevention, and emphasizes the importance of improving compliance.

Investigation of Complaints: The above data illustrate that Part III activities of the Labour Program have been almost exclusively driven by complaints in recent years. This is a concern for a variety of reasons. For example, systems that rely exclusively on individual complaints can suffer from the problem that individuals fear reprisals even if there is legislated protection against such reprisals. Complaints have a "public good" characteristic to them in that the individual who complains often bears the full cost of the complaint (including potential reprisals), while benefits are shared by others in similar situations. In such circumstances, either few complaints are forthcoming or they poorly target firms in non-compliance with labour standards.

As well, complaint-driven systems may be ineffective if both employers and employees benefit by not having the legislation enforced. This is particularly an issue with regulations on long hours of work. Employees who work the long hours often want the additional income. The unemployed and underemployed who could potentially benefit from the worksharing aspect if hours were reduced are seldom at the worksite to lodge a complaint. Unions may also find it difficult to complain if they run the risk of alienating their members who want the long hours.

Additionally, complaints are poorly designed to address the problem of non-compliance, if awareness of the regulations differ significantly among different groups. Finally, a system driven by complaints may be ineffective if no wider reviews of compliance or education of employers is conducted, and if the complaint process does not remedy the underlying causes of complaints or violations.

Both LAOs and key informants stressed the need to increase proactive interventions (particularly workplace inspections) in order to achieve greater compliance with the Code. About 60 percent of LAOs surveyed indicated that more inspections would be a significant improvement to the program. Similarly, key informants often deplored the fact that resource constraints have resulted in fewer inspections and audits in recent years. Indeed, some informants from the "busier" Provinces pointed out that if a company receives a complaint against it, the Labour Program will investigate that complaint, but generally does not audit the firm more generally to ensure that the firm is complying with regards to other employees, or in compliance with other provisions.

Despite the clear commitment made by the Labour Program to promote greater compliance with regulations through co-operative and proactive actions, the program has been limited in its preventive compliance efforts by reason of the substantial and increasing proportion of resources devoted to the investigation of complaints. This may have resulted in too few, or mis-targeted interventions for educational purposes and may have limited the impact of LAO's work on overall compliance with the Code.

Overall, there is no "quick fix" to the resources problems of the Labour Program. The current high level of complaints, combined with fixed resources, prevents significant proactive inspections and audits from being conducted at this time. The investigation of complaints is clearly a high priority in the administration of the Code and unless additional resources are injected into the system, inspections will remain infrequent.

Some alternatives are currently being examined by the Labour Program, such as to grant discretionary powers to LAOs to refuse to investigate frivolous or vexatious complaints, or to require complainants to use other avenues for redress (such as small claims courts) when they are available. If any of these options are implemented, they could allow for some resources to be redirected to inspections and audits in the future.

Overall, however, it appears that more radical measures would be required to achieve a turn-around in the non-compliance complaints spiral. One such measure for the program would be the creation of a new special sub-component to be devoted to education and the reduction of non-compliance. This topic is addressed further in the conclusion of this report.

4.2.3 Other Delivery Techniques

Despite the policy preference for voluntary compliance and co-operative attitudes, the implementation of Part III of the Labour Code involves the application of "binding" regulations and the primary "mission" of the Labour Program is to achieve compliance with the Code in one way or another. To this end, various other instruments are available to LAOs in the application of labour standards.

Payment Orders: The payment order is a powerful tool which forces employers to pay sums of money due to an employee. Payment orders are issued by LAOs and can be filed in the Federal Court, in which case they become enforceable as a judgement of that Court. An employer can appeal a payment order to the Minister, but this must be done within 15 days after the service of the order and the firm must agree to pay the amount at issue to a suspense account pending the outcome of the appeal. The appeal is heard by a referee named by the Minister.

About 80 percent[61] of LAOs reported that payment orders were an effective tool in the administration of the Code. They allow for a speedy and effective remedy for employees, but (as key informants pointed out) this mechanism is not trouble free. For example, payment orders may seriously hinder small companies falsely accused of non-compliance by removing from use, in many circumstances, a sizeable part of their operating budget while awaiting the outcome of the proceedings. The legal ramifications of using this tool are much greater than for other tools that LAOs have at their disposal, and the consequences of using the payment order inappropriately are quite serious. There is no clear evidence, however, that payment orders have been used inappropriately and generally very few orders are contested by employers.

One problem frequently reported by LAOs in the survey is the difficulty in enforcing payment orders when employers refuse to comply with them. As one LAO observed: "when payment orders have to be filed in Federal courts, complainants are upset and feel abandoned by [the] labour [program]". There is little incentive for employers to comply with payment orders before they are filed in court and what is meant to be a speedy and effective remedy can often become slow and cumbersome when enforcement steps are required.

Assurance of Voluntary Compliance: An Assurance of Voluntary Compliance (AVC) is an undertaking made by an employer to correct a situation of non-compliance by a certain date. When an AVC is recorded, the assignment file is considered "closed", but follow-up inspections are possible to verify that employers have respected their undertaking. While AVCs are no doubt useful instruments consistent with the policy of voluntary compliance, they sometimes lack "teeth" in the sense that LAOs must solely rely on persuasion to obtain an undertaking on the part of employers.

The only alternatives in situations where employers refuse to comply is to use payment orders (if the violation relates to non-payment of wage) or prosecution. Nonetheless, the survey indicates that a large majority of LAOs (72.2%)[62] believed that AVCs were an effective tool to ensure compliance with the Labour Code.

Permits and Votes: The Code allows for some flexibility in the application of certain standards, particularly in the area of maximum hours of work. An employer can obtain a permit from the Minister to occasionally exceed the maximum hours or the employer can seek approval from the firm's union or 70 percent of the affected employees for averaging plans or modified work weeks. But the complexities of a permit system have often led to it being ignored. Previously, the Ontario Task Force on Hours of Work and Overtime, for example, described the Ontario system of exemptions, special provisions and permits as "complicated and bewildering" indicating that "the structure is so complicated that its totality is likely understood by only a handful of persons."[63] These complexities have invariably contributed to the rampant non-compliance with the permit system which has been reported for Ontario.[64]

To a large extent, the same observations can apply to Part III, since less than one percent of survey respondents reporting having sought permits from the Minister to extend hours of work in 1996. In this context, it is not surprising that a recent Working Group of the Labour Program recommended the abolition of the permit system.[65] Historically, permits may have been an efficient system in an industrial workforce where overtime was often regular and predictable. Today, however, they seem anachronistic and burdensome, particularly for smaller employers where overtime is more irregular and unpredictable, often associated with just-in-time delivery systems. In the absence of a permit system, however, alternatives must be sought to provide flexibility in the provisions on hours of work.

One possible alternative to maximum hours of work regulations is to rely exclusively on the overtime premium, which is a simpler "penalty", known in advance, that has to be paid for overtime hours. It may discourage long hours by simply putting an additional tax on those hours, and by requiring that the revenue from the tax goes to the employee who works the long hours. However, it has often been pointed out in the literature that current overtime premiums do not constitute an effective disincentive to use overtime, because of the high costs associated with hiring and training employees. Moreover, in today's environment with the dominance of the two-earner family, the right-to-refuse overtime may become an increased priority for employees, especially where overtime conflicts with childcare responsibilities or family time in general. This issue is further discussed in the conclusion of this report.

Mediation: As stated above, a large proportion of complaints received by the Labour Program relate to unjust dismissals. In these cases, LAOs investigate the complaint and act as mediators between employers and employees. The LAO can inform the parties on their rights and obligations and assist them in settling the dispute. If the parties fail to come to an agreement, either party can ask the Minister to refer the matter to an adjudicator. The National rate of unjust dismissals being settled by LAOs has varied between 70 to 75 percent of all complaints during the 1990s.[66] In the survey, LAOs reported their own assessment of the level of effectiveness of mediation procedures. About 85 percent of LAOs indicated that mediation was a useful procedure in administering the Code. Generally, no problems were reported with respect to this area of the Code, other than the fact that it used substantial resources within the Labour Program.

Fines and Prosecutions: LAOs overwhelmingly reported (78.4 percent) that a significant improvement in the administration of Part III of the Code would be the implementation of stronger enforcement tools (Display 12). Currently, penalties under the Labour Code can only be imposed following prosecution in court actions, and penalties are reportedly lower than in many other jurisdictions. Moreover, as one LAO commented: "there appears to be a great deal of reluctance on the part of Labour Standards at NHQ to encourage prosecution". Labour Program key informants agreed that fines are not being implemented and that prosecution is too long and too expensive a process to be effective.

In some cases, the amounts in dispute are very small in comparison to the costs of prosecuting. This led some key informants to question the larger picture of the process: is the money spent on prosecution an investment when, at times, the amount in dispute is considerably less than the costs of the proceedings. Is this an area where the government wants to save money? Or is the educational component (i.e. if you don't comply — this could happen to you) worth the money spent. In this respect, it is unclear to what extent "examples" are brought to the attention of, or are noted by, other employers. Currently, prosecutions are very rare because of the costs involved, and employers understand this. Hence, in the current situation, there is little apparent incentive for the employers to comply.

An alternative to the imposition of penalties and the prosecution of firms under the Code would be the establishment of cost-recovery mechanisms which would transfer a part of the administrative costs of investigating complaints and inspecting firms to employers found in violation of a provision of the Code. This option could either be applied systematically (for all violations) or be targeted to firms with frequent violations.

A large proportion of LAOs (77.6 percent) (Display 12) were in favour of the cost recovery option, and interestingly, a significant proportion of employers (38.8 percent) (Display 13) also indicated some support for cost-recovery alternatives for firms with repeated violations. Both LAOs and employers, however, objected to a systematic cost-recovery mechanism for all violations of the Code, perhaps because this would undermine the underlying rationale of the Compliance Policy which favours co-operation and voluntary compliance by employers.

Enforcement of Part III through penalties and cost recovery is an important issue. Targeted cost-recovery, however, may lack a clear rationale, since it would necessarily be seen as "disguised" penalties if only applied to employers with repeated violations. If the objective is to achieve greater administrative efficiency in the enforcement of penalties, other options may be available such as the establishment of a system of fines and tickets (with an appeal to the Minister) or simply the imposition of more severe penalties.[67] A change — in one direction or the other — seems to be much in need.

Display 12
LAO's Views on Alternative Service Delivery Based on a Survey of a National Random Sample of 74 LAOs

Suggested Labour Program Improvements	
More Part III information for firms	63.5%
More Part III information for unions	37.8%
More visit/help for firms from LAOs	68.9%
Increased labour prog. seminars to explain Part III	62.2%
Better written info. for employees from Labour Branch	25.7%
Part III info. on the internet	27.0%
Toll-free number to access Part III info.	41.9%
Distribution of info. through associations	33.8%
Stronger enforcement tools	78.4%
More inspections	56.8%
Annual self-report by firms on labour practices	24.3%
Other way to improve compliance	16.2%
None of the above	1.4%
Delivery Alternatives	
Establish industry-level mechanisms for disputes	23.0%
Co-delivery of standards in co-operation with Provinces/Territories	39.2%
In which area(s):	
Joint intake	28.4%
Information Management Services	13.5%
Education	40.5%
Joint delivery of services to remote areas	31.1%
Other areas	6.8%
Privatization of any aspects of enforcement	8.1%
Alternative delivery	12.2%
Other delivery alternative	4.1%
None of the above	16.2%
Should non-compliers pay administrative costs?	
Yes, but only firms having repeated complaints	77.6%
Yes, all firms	9.0%

No	13.4%

4.3 Alternative Service Delivery Options

The Labour Program has been studying the issue of alternative service delivery for some time, consistent with the Federal Program Review and overall efforts of reorganization in the Federal public sector. In 1995, a Working Group on Regulations and Enforcement Alternatives was formed and recommended a number of possible changes in the delivery of services. To date, few of these changes have been implemented, but many of the recommendations of the Working Group served as the basis for exploring alternative service delivery options in the context of this evaluation.

Report of the Working Group: Recommendations from the Working Group were numerous. Some of them touched on potential improvements and productivity gains in the delivery of services, while others involved legislative changes to the Labour Code. In the service delivery structure, the Working Group proposed changes to consolidate certain Departmental activities and to achieve better information dissemination on labour standards through the implementation of Department-wide information systems and 1-800 inquiry lines. The report also stressed the need to explore various partnership options, particularly with provincial governments and other Federal Departments, and cost-recovery mechanisms for certain services.

Some of the proposed changes required legislative changes. For example, the Working Group suggested a review of penalties under the Code to provide for a system of fines and tickets and to increase sanctions already provided in the legislation. The establishment of legislated internal committees similar to the safety and health committee for Part II of the Code was also recommended for labour standards. Finally, the Working Group proposed legislated changes which would allow inspectors to refuse frivolous or vexatious complaints, or to refuse a complaint when other avenues of redress exist for complainants.

Dissemination of Information: Options for a better dissemination of information on Part III of the Code are numerous, and several were examined in the surveys including toll-free inquiry lines, seminars, Internet sites, etc. The effectiveness of such mechanisms would depend on the extent to which employers and employees would use them and whether it would affect behaviours in the workplace. Generally, the evaluation surveys show that LAOs are highly supportive of such options, while employers vary greatly in their degree of interest for information on labour standards, and mechanisms to supply such information.

Most LAOs indicate that more seminars to explain Part III (62.2 percent), and more information for firms on Part III generally (63.5 percent), would be effective improvements to the program (Display

12). Employer's support for such alternatives is lower, however, with about one-third of survey respondents indicating an interest in more Part III information (seminars, brochures etc.) and a somewhat higher proportion favouring the establishment of a toll-free inquiry line (40.9 percent). Generally, most employers indicated their interest in at least one of the various options for disseminating information (Display 13).

Display 13
Employer's Views on Alternative Service Delivery Based on a Survey of a National Random Sample of 618 Employers

Should firms with repeated violations pay for adm. costs	
Yes, but only firms with repeated complaints/violations	38.8%
Yes, all firms	5.2%
No	56.0%
Options of interest to aid compliance with Part III	
Labour program seminars to explain Part III details	35.4%
Establishing industry mechanisms for Part III disputes	7.5%
More Part III info. for the firm	32.1%
More visits/help from LAOs	7.9%
Better written info. from Labour Branch	31.6%
Part III info. on the internet	22.3%
Toll-free number to access Part III info.	40.9%
Distribution of info. through associations	6.5%
Alternative delivery	3.0%
Other resources/changes	1.3%
None of the above	20.2%
Experience with internal dispute resolution in Part III	
No experience with internal dispute resolution	79.8%
Through a collective agreement	7.1%
Through joint mgt./worker or company/union committee	5.4%
Through referral to senior mgt.	10.3%
Through referral to a consulting firm	6.0%
Through other approaches	2.6%
Interest in developing internal dispute mechanisms	
Not interested in internal dispute resolution	66.4%
New mechanisms in collective agreement	3.2%
Use of joint mgt./worker or company/union committee	9.1%
Training in dispute resolution for managers	21.4%
Referrals to consultants for assistance	7.3%
Other dispute resolution mechanism	2.8%

The proportion of employers indicating an interest for further information dissemination suggest that there is a reasonable demand for such services, but (as discussed above) its effects on compliance are less certain. It appears clear from the survey that there is widespread ignorance of certain provisions of the Code, but it is not certain that labour standards will elicit sufficient interest and concerns in these workplaces to have employers actually seek the available information. Therefore, it is likely that information dissemination initiatives on the part of the program will have to be accompanied by more active educational activities (such as calls or mailings, association programs, visits to workplaces, etc.) to achieve greater compliance. Targetting information to the employers who need it the most is also a key aspect of information dissemination.

A related strategy would be the increased dissemination of information to employees who would then "pressure" employers to recognize their rights. However, such an approach would create major problems for the Labour Program (in terms of backlog of complaints, etc.) if not preceded by strong efforts to educate employers and improve compliance.

Internal Responsibility System: The report of the Working Group recommended legislative changes for the establishment of internal Human Resources Committees within the workplace to deal with Part III issues, similar to the system of Safety and Health Committees currently operating under Part II of the Code. These committees would be required to investigate employee complaints, develop human resources programs and monitor procedures relating to Part III within the workplace.

The survey examined the issue of internal responsibility by asking employers and unions about their interest in internal dispute resolution systems to deal with Part III issues in the workplace. As shown in Display 13, a large majority of employers (79.8 percent) reported having no experience of any kind with internal dispute resolution on labour standards matters.

The few firms reporting experience with internal dispute resolution generally indicated that employees were invited to refer complaints to senior management in the firm. Use of joint management-labour committees was reported by only a handful of firms (5.4 percent).

Interest in internal dispute resolution was relatively low among both employers and unions respondents. The majority of employers (66.4 percent) reported no interest at all for such options. It is quite possible that most employers are not interested by such options, because they fear a potential increase in the administrative costs of their human resources function. While unions demonstrated more interest for several options in the area of internal dispute resolution, a substantial minority (33.9 percent)[68] reported no interest at all.[69]

Overall, the surveys indicated only a moderate interest for some of the proposed alternative options, the most attractive of which among employers (21.4 percent) was training in dispute resolution for employers. Other options such as the use of joint management-labour committees interested only a handful of employers (9.1 percent) but 30.6 percent of union representatives.[70]

Partnership, Privatization and Other Options: The Labour Program has been examining the possibility of co-delivering some of its services in collaboration with the Provinces. This option was supported by a large proportion of LAO respondents (39.2 percent) who saw it as a potential improvement to the current system. Some of the areas where potential for co-delivery was reported by LAOs included: education and awareness programs (40.5 percent), joint delivery in remote areas (31.1 percent) and joint intake (28.4 percent). Potential for co-delivery was reported less frequently by LAOs for joint information management services (13.5 percent) (Display 12).[71]

The option of privatization found little support among key informants particularly in the area of enforcement. It was often pointed out that enforcement was strictly a governmental role, and that private agencies would not have the same legitimacy in the eyes of the public. Contracting out enforcement, it was feared, would also leave too much room for potential abuse by the private company. According to some key informants, privatization in Alberta has not been successful, and the province is more or less returning to the old model. Almost all LAOs rejected privatization of enforcement activities as unworkable, with less than 10 percent of respondents indicating this option as a potential improvement to the program.

Self-regulation in various forms was only slightly more popular than privatization among LAOs. About one-quarter of respondents indicated that industry-level dispute resolution mechanisms could be an improvement to the current system. That option was also unsupported by employers, with less than 10 percent of respondents supporting it.

Alternatives for delivery for First Nations were, however, noted by a number of those surveyed as a need for the program. This was a concern of LAOs in particular, who reported facing a number of unique needs in their work with First Nations. As several commented: "Determining whether a First Nations undertaking is under Federal jurisdiction appears to face continually varying opinions from legal advisors and the courts"; "there should be self-delivery through Tribal Councils"; "we need more cross-cultural training to work effectively with First Nations"; "there is a serious need to educate First Nations clients".

In addition, the evaluators noted that about one in three First Nations surveyed expressed an interest in alternative delivery for First Nations. Combined with the increasing scope of First Nations enterprises (casinos, for example), the importance of this area for the future is likely to increase, and is therefore identified by the evaluators as an area for future program development.

4.4 Communications Issues

Complementary to other program development initiatives, development of a communications strategy for the program, could be a significant improvement to the current delivery system. This could include a wide range of elements, improving linkages among the program elements.

To illustrate, as a backdrop to improved dissemination of information (as discussed above), the communications strategy could improve the content of communications. For example, even when employers seek information about labour standards, existing informational documents do not really explain why federal labour standards exist, or what the rationale is. Including such explanations could improve the understanding among employers, helping them to understand why they might benefit from compliance. Indeed, even the distribution of information from a report such as this could help to educate employers in a more complete way. This is important because people respond better to a law which is explained.

The Part III "poster" represents another illustration. This 8.5 x 11 page contains virtually no information for employees, and is without any redeeming communications features. Such a poster should be made eye-catching, and should provide key information. The vast majority of LAOs reported that the poster was not an effective educational tool, while a number of LAOs even ignored the existence of this poster.

Other communications — more at the symbolic level — may also be important. For example, in the evaluation surveys, the evaluators found that many employers did not respond right away to HRDC, in relation to labour standards. Only when they were reminded "formerly Labour Canada", did respondents understand which standards and government agency was involved. In contrast, when HRDC was mentioned, many employers began to think about training or Employment Insurance. Communications with employers could be improved by systematic identification of the program as unique. For example, to ensure that employers focus on the unique issues of the Labour Program when dealing with labour standards issues and not the broader issues of HRDC (such as Employment Insurance), it is suggested that the program might always be identified to employers as "Labour Canada, HRDC", or "Labour Program, HRDC". Overall, a more integrated communications strategy will be an important part of any effort to increase compliance.

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5. Cost-Benefit and Socio-Economic Aspects

5.1 How Should Labour Standards Affect Economics and Labour?

Existing theory provides some guidance on what might be expected in terms of labour standards impacts. For example, the anticipated impact of labour standards in the market is thought to be affected by a number of adjustment behaviours on the part of economic players which may offset the intended outcomes of the policy. This section will illustrate these types of behaviours from a theoretical perspective by focusing on three main aspects of labour standards: hours of work and overtime, minimum wages, and individual and group terminations.

Hours of Work and Overtime: In theory, hours of work and overtime provisions should reduce long hours by making them more costly to employers — costly in the form of acquiring the permit or permission from employees or unions, or paying an overtime premium. This, in turn, should reduce the use of long hours, leading to an increase in employment for those who are unemployed and an increase in the hours of work for the underemployed — this being, in part, the purpose of the reduction in long hours.

These forces, however, can be offset by a myriad of other (often unintended) responses by employers (and employees and unions).[72] To the extent that costs are increased, firms may reduce their output; going out of business being the extreme response. This, in turn, can reduce the demand for employees in general, including those who formerly did not work long hours, and employees who have their hours reduced may moonlight elsewhere. Production may shift to sectors not covered by the labour standards, or sectors where it is more difficult to enforce the legislation. This can involve outsourcing, subcontracting and even off-shore production — all of which are easier in a global marketplace characterized by flexible production and non-standard forms of employment. The forms of possible substitution depend on a variety of factors, most importantly, the firm's perception of the additional costs imposed by long hours regulations.

The tendency towards substitution into the unemployed or underemployed can be reduced by the likelihood that the unemployed may not match the job requirements of those who work the long hours. Firms may be reluctant to hire new recruits to replace lost overtime hours because of the quasi-fixed costs associated with the new recruits, including the costs of hiring, training and expected termination costs that must be capitalized into the hiring decision. Many of today's payroll taxes also have ceilings beyond which the taxes are not paid, in which case such payroll taxes will be incurred for the new recruits but not for working the existing longer hours if they are at the ceiling.[73]

Other more subtle adjustment processes may also be at work to offset the expected impact of the legislation. Firms can alter the straight-time component of their compensation to offset the effect of an increase in the overtime component. This may be accepted by employees to the extent that they value the overtime hours — in essence, it is a compensating wage reduction to compensate for the benefit of overtime hours at premium rates. Firms may also shift to different compensation arrangements such as salary, with the expectation that long hours are worked for a given salary. Or the firm may shift towards contract work, outsourcing, or other forms of employment where overtime is not an issue.

These factors highlight the fact that the job creation potential of reductions in long hours may be offset by a variety of factors, even if the legislation is effectively enforced. The empirical evidence on this topic suggests that restrictions on hours of work and overtime are likely to lead to some job creation, but that the effect is limited.[74] An increase, for example, in the overtime premium from time-and-one-half to double time (i.e., a one-third increase) is likely to reduce overtime hours by about 20 percent.

Mechanically translating these hours reductions into new jobs would imply an employment increase of about 1.25 percent. However, about half of this would be offset by the previously discussed "leakages", leading to an employment increase of about 0.60 percent.[75] A limited number of empirical studies also suggest that reductions in the standard work week after which the overtime premium applies would likely have little measurable effect on job creation.

Minimum Wages: As with any form of wage fixing legislation, minimum wage legislation is often expected to reduce employment as firms reduce their output in response to the cost increase, and as they substitute other inputs for the more expensive labour. However, there are theoretical reasons for believing that minimum wage increases, at least of a modest size, may have little or no adverse employment effect.

Minimum wages may be, for example, offset by reductions in non-wage aspects of employment or changes in working conditions. Their cost effect may be offset by productivity improvements from employees receiving the higher wages (efficiency wage effects), or by efficiency enhancing effects elsewhere in the system ("shock" effects). The effects of a minimum wage increase may also simply take a long time to occur, especially if they require new production processes (short-run effects). This could especially be the case if minimum wage increases had not occurred for some time in which case employers had not prepared for possible adjustments. Employers who are wage-setters may actually increase employment when faced with a higher wage because their employment expansion is no longer inhibited by the fact that they would have had to pay the higher wages to their existing workforce had they voluntarily raised wages to attract additional workers (monopsony effect). In essence, these wage increases may help attract new recruits and reduce resignations.

Until recently, there was general agreement amongst economists that minimum wages would reduce employment, especially because there were generally good substitutes for low-wage labour and it was not possible to pass cost increases to consumers because they generally could substitute other products for those produced by low-wage labour.

For example, surveys of the earlier evidence suggested that minimum wage increases of 10 percent would reduce employment of teenagers by about 1 to 3 percent (i.e., the elasticity of demand for low-wage labour ranged from about -0.10 to -0.30).[76]

However, a number of recent studies associated with Card, Krueger and Katz[77] have cast doubt on this conventional wisdom, since they found no adverse employment effect (sometimes employment increases) from recent minimum wage increases in the United States. Possible explanations for this are still being debated, many of which involve the previously mentioned reasons why adverse employment effects may not occur, at least in the short-run. These controversial results will likely be debated for some time. Until a stronger consensus occurs, perhaps the most reasonable conclusion is that the evidence in this area should be regarded as inconclusive. Even if the evidence of an adverse employment effect is accepted, it should be emphasized that the adverse effect is fairly small. In essence, the evidence suggests either a small or non-existent adverse employment effect.[78]

Termination Legislation: The rationale for termination legislation is to provide an advance warning period (or sometimes pay in lieu of notice) to cushion the shock and to facilitate job search for those who are permanently displaced from their job. But, it is also possible that by raising the cost of terminations, the legislation may induce employers into using other adjustment mechanisms such as worksharing, reductions in subcontracting, early retirement inducements, or attempts to expand the business to reduce the need for labour adjustments in the first place. As well, employers may make their downside adjustments and plant closings in other jurisdictions or countries that do not have termination requirements.

In theory, these adjustment mechanisms should work in that fashion, and raising the cost of one adjustment mechanism should induce a substitution into other adjustment process. There is, however, an additional, subtle adjustment mechanism that can work in the opposite direction to that intended by the legislation.

In their decision to hire new workers, employers may now factor in those expected termination costs should they have to subsequently lay off their new hires.[79] In essence, the expected termination costs are anticipated at the hiring stage. Since they are quasi-fixed costs associated with the hiring of new employees, they can deter such new hiring and encourage employers to work their existing workforce long hours to amortize those fixed costs. Because termination legislation reduces layoffs and encourages long hours but deters new hiring, its net effect on employment and unemployment is ultimately to be determined by research.

The literature on the impact of advance notice legislation in the United States, generally concludes that termination legislation does reduce unemployment by facilitating job search during the notice period.[80] Recent studies that try to control for the possibility that firms may give longer notice periods to workers who are likely to have more difficulty finding jobs, however, give mixed results.[81] Canadian evidence[82] suggests that limited advance notice is quite effective in reducing subsequent unemployment, but larger notice periods have little impact, and in fact may have negative effects. Empirical studies that also incorporate the potentially negative effect of termination laws on the *hiring* decision show mixed results.[83]

In conclusion, expected impacts of labour standards may be offset or otherwise fail to occur because of a series of unintended adjustment mechanisms in the labour market. The extent to which these adjustment mechanisms will occur depends largely on the employer's perceptions of additional costs imposed by labour standards and the availability of substitute forms of production and employment. It is important, therefore, to ensure that labour standards do not impose undue costs on employers which may induce undesirable adjustment behaviours and result in unintended negative outcomes.

5.2 Perceived Costs and Benefits of Labour Standards

5.2.1 What Costs of Labour Standards are Perceived by Employers?

Although market adjustment behaviour depends largely on the players' perceptions of costs and benefits associated with labour standards, little factual evidence existed on the actual views of employers and employees on the balance of costs and benefits of the Canada Labour Code. Partly for this reason, this issue was explored at some length in the surveys conducted for this evaluation.

Administrative Costs: Part III of the Labour Code imposes certain administrative requirements on employers, the most important of which relate to normal business operations such as payroll calculations, record keeping and work scheduling. Occasionally, employers may also be required to seek a permit from the Labour Program or an authorization from employees or their union to exceed regulated hours of work. The survey examined the issue of whether employers perceived these requirements as imposing additional administrative costs to their firm or, in other words, whether the costs of conforming with labour standards (assuming compliance) would create significant additional costs for firms.

The first indicator asked employers to indicate which specific standards (if any) imposed additional administrative costs to the firm. For each of the legislated standards, the proportion of employers reporting additional administrative costs was relatively small — generally less than ten percent.

The provisions which were most often reported to impose additional administrative costs included: statutory holidays (13.4 percent); normal hours of work (10.4 percent); overtime rate (9.7 percent); and severance pay (9.0 percent). On the whole, these data suggest that administrative costs were not a significant issue for employers, since as many as 65 percent of them reported no specific standards imposed additional administrative costs to their firm (Display 14).

As a second indicator of administrative costs, the survey asked employers to indicate whether Part III of the Code in general imposed additional administrative costs on their firm and, if so, whether these costs were minor or major. Responses to this question are consistent with the results reported above and indicate that administrative costs are not seen as significant by employers. Additional administrative costs as a result of the Code were reported to be non-existent by about 32.3 percent of employers, to be minor by about 57.8 percent and to be major by only 9.8 percent of employers.[84]

Administrative Costs Rolled-up: When asked to estimate the percentage of increase in their administrative costs caused by Part III of the Labour Code, about 56 percent of employers reported no significant increase. Among those who did report additional administrative costs, the estimated increase was reported to be on average 13 percent of their total administrative costs. Combining all of those providing an estimate (those estimating no costs, with those estimating some percentage cost), the estimated additional costs were just over 4 percent. These results show the apparent variability of such cost estimates.

It appears, therefore, that the vast majority of employers perceived administrative costs associated with payroll calculations, work scheduling and other Part III labour standards to be those of running a normal business, and that most of these costs would be incurred regardless of whether Federal labour standards existed or not. It should be noted, however, that some employers displayed a relatively low understanding of current labour standard requirements and that this lack of understanding may be reflected in their perceptions of additional administrative costs.

Payroll Costs: Additional payroll costs as a result of labour standards may occur at different levels, the most obvious illustrations being compliance the overtime pay and minimum wage provisions. Other payroll costs associated with the Code may result from the termination of employment (severance pay and advance notice of termination) or from statutory holidays and vacations. Additional payroll costs only occur if the firm would not have paid similar wages or benefits in the absence of legislated labour standards.

Display 14
Employer's Views on Additional Costs for Specific Standards Based on a Survey of a National Random Sample of 618 Employers

Provisions Imposing Additional Cost*	**Administrative Costs**	**Payroll Costs**
(a) Normal hours of work	10.4%	12.7%
(b) Overtime pay rate	9.7%	15.1%
(c) Minimum wage	2.1%	2.8%
(d) Equal wages	3.3%	4.2%
(e) Annual vacations	6.6%	9.2%
(f) Statutory holidays	13.4%	16.1%
(g) Maternity/parental leave reassignment	5.2%	7.7%
(h) Bereavement leave	5.2%	11.6%
(i) Individual terminations	7.8%	8.9%
(j) Group terminations	3.2%	2.8%
(k) Severance pay	9.0%	27.4%
(l) Sick leave/work-related illness	6.2%	13.8%
(m)Timely payment of wages	2.9%	1.4%
(n) Policy on sexual harassment	3.0%	1.6%
(o) No additional costs	65.0%	50.2%

* The percentage shown indicate the proportion of respondents indicating any costs associated with these standards.
Federal Labour Standards (Phase I)

Additional payroll costs relating to **specific labour standards** were reported more frequently by employers than administrative costs, but the difference was not substantial. The percentage of employers reporting additional wage costs for specific labour standards varied greatly, from 1 to 27 percent.

Additional payroll costs were most frequently associated with the following standards: severance pay (27.4 percent), statutory holidays (16.1 percent), overtime rate (15.1 percent) and sick leave/work-related illness (13.8 percent). Here again, some 50 percent of employers did not indicate any specific provision of the Code imposing additional payroll costs to their firm (Display 13). When asked to assess the extent of additional payroll costs imposed by the **Part III Code in general,** some 36.3 percent of respondents reported no such costs, about 39.1 percent indicated them to be minor and only 24.6 percent of employers reported major costs.[85]

Payroll Costs Rolled-up: Employers' overall estimates of the percentage increase in payroll costs as a result of the Labour Code was relatively modest. About 30 percent of employers reported no increase in labour costs as a result of the Code. Among those who did report costs, the estimated increase was on average about 14 percent of their total payroll costs. Averaged, these two groups indicated an average increase of just under 4 percent in payroll costs as caused by compliance with Part III. Again, these results appeared to indicate high variability in cost impacts, although relatively low costs overall.

The existence of additional payroll costs as a result of labour standards in a given firm is (in theory) a factor of whether the demand for labour in that industry would require wages and related benefits to be above or below legislated standards in an unregulated market. To attract and keep skilled labour, firms will have (other things being equal) to match or exceed wages and related benefits offered by competitors in the same sector. Thus, labour standards should only have an impact on the firm's payroll costs if the firm would otherwise pay lower benefits than is required by the Code. Responses from the survey indicate that the majority of employers believe that they would not pay significantly lower wage and benefits in an unregulated market.

In some instances, this is supported by other data showing, for instance, that almost all Federally-regulated firms pay wages above the minimum standard required by the Labour Code.[86] In this example, the fact that most firms generally provide above-standard conditions explain why employers do not perceive additional payroll costs. However, this is not always the case.

Other data from the survey indicate that a large proportion of firms (more than 20 percent) do not provide severance pay to employees upon termination of employment. In this case, ignorance of the regulations (and non-compliance) may explain why employers do not experience additional payroll costs. (Note, however, that severance pay is not required if the employee quits.)

Other Costs and Overall Estimates: Employers were asked to indicate any other minor and major costs for their firm associated with the Labour Code in general. Major costs were reported by a minority of employers in such areas as: loss of flexibility in scheduling work (15.6 percent); difficulty adjusting to the market (15.1 percent). The large majority of employers, however, indicated that these elements represented minor costs or no costs at all for their firm (Display 15).

Display 15
Employer's Views on Additional Costs Imposed by the Code Based on a Survey of a National Random Sample of 618 Employers

Costs Imposed By Part III*	
(a) Higher administrative/paperwork costs	9.8%
(b) Higher labour costs	24.6%
(c) Loss of flexibility in work scheduling	15.6%
(d) Difficulty adjusting to market/business demands	15.1%
(e) Disruption of production	10.7%
(f) Reduced productivity	12.2%
(g) Reduced international competitiveness	10.4%

* These percentage indicate the proportion of respondents who

reported MAJOR COSTS.

In conclusion, the results suggest that, contrary to a certain "corporate wisdom", the costs of labour standards are generally not an issue for most firms. Most employers reported no substantial additional administrative, payroll or other costs as a result of the Canada Labour Code. If the views of employers on this topic hold true, one should expect relatively minor impacts of labour standards on macro-factors, for example, international competitiveness and corporate profitability. These issues may however require more attention, particularly as to how standards affect flexibility in certain industries, such as grain.

A caveat is noted regarding compliance and costs: most employers comply only in part with the Code, so (naturally) their compliance costs are also partial. If they complied more fully, costs would presumably be higher. No evidence, however, was found of a significant relationship between level of compliance and costs of compliance. Should a revitalized labour program increase compliance in the future, cost issues should, however, be revisited.

5.2.2 Benefits of Labour Standards

The survey asked employers to identify specific labour standards which provided additional benefits to their firm or their employees. As with costs, the proportion of employers indicating additional benefits as a result of Part III of the Code was relatively small, varying between 0-26 percent depending on the Code item. Annual vacations (26.0 percent) was the standard most often reported as providing additional benefits to the firm or employees, followed by statutory holidays (21.1 percent); bereavement leave (14.7 percent) and equal wage (13.2 percent). Other standards which were not reported to provide additional benefits by many employers included: individual terminations (2.3 percent); severance pay (4.5 percent) and policy on sexual harassment (5.9 percent). About 55 percent of employers indicated no Code items providing additional benefits to their firm or employees (Display 16).

Employers were also asked to indicate whether the Code in general provided benefits to their firm or employees in various areas such as productivity, labour relations, competitiveness, etc. The areas most frequently reported by employers as providing major benefits to their firm or employees included: easier to deal with a single set of Federal standards (as opposed to many Provincial standards) (39.2 percent); avoidance of legal costs (30.1 percent); level playing field in the industry (26.0 percent); higher job satisfaction (26.0 percent); and better working conditions for employees (25.8 percent) (Display 17).

Overall, specific items of the Code providing benefits for firms or employees were reported in roughly equal numbers as those imposing additional costs to the firm. Nonetheless, employers were relatively unlikely to indicate benefits for specific labour standards and this may be a reflection of the intangible nature of many of the intended benefits of labour standards. Potential benefits such as better labour relations, higher job satisfaction, reduced litigation costs, etc. may not be readily or demonstrably associated with compliance on specific Code items, hence the difficulty of respondents to identify such benefits.

Display 16

Employer's Views on Additional Benefits of Labour Standards Based on a Survey of a National Random Sample of 618 Employers

Provisions providing additional benefits	
(a) Normal hours of work	8.9%
(b) Overtime pay rate	9.8%
(c) Minimum wage	8.0%
(d) Equal wages	13.2%
(e) Annual vacations	26.0%
(f) Statutory holidays	21.1%
(g) Maternity/parental leave reassignment	9.3%
(h) Bereavement leave	14.7%
(i) Individual terminations	2.3%
(j) Group terminations	0.6%
(k) Severance pay	4.5%
(l) Sick leave/work-related illness	12.9%
(m)Timely payment of wages	11.9%
(n) Policy on sexual harassment	5.9%
(o) No benefits	54.7%

* The percentages shown indicate the proportion of respondents indicating any benefits associated with these standards

Display 17

Employer's Views on Additional Benefits Provided by the Code Based on a Survey of a National Random Sample of 618 Employers

Benefits provided by Part III*	
(a) Simpler to deal with only one Federal Standard	39.2%
(b) Level/competitive playing field with other firms	26.0%
(c) Avoidance of legal costs	30.1%
(d) Higher productivity	17.4%
(e) Better employee/labour-mgt.	24.2%

relations	
(f) Absenteeism reduction/employee fatigue	19.9%
(g) Better working conditions for employers	25.8%
(h) Higher employee job satisfaction	26.0%
(i) Other benefit to firm	8.6%

* The percentages shown indicate the proportion of respondents reporting MAJOR COST.

5.2.3 Balance of Costs and Benefits

After identifying specific costs and benefits associated with Labour Standards, employers and union representatives were asked to provide their views on the overall balance of costs and benefits for their firm and for their employees. The same indicators were used for both employers and union representatives in order to obtain comparable views on the potential cost-benefit implications of labour standards.

Generally, employers were split on the issue of the balance of costs and benefits for their firm, with about half of respondents (46.5 percent) indicating no opinion on the question. Employers who did provide an opinion were divided in more or less three equal groups. About 18.2 percent of respondents indicated that costs were greater, 19.7 percent that costs and benefits were equal and 15.6 percent that benefits were greater.

With respect to the balance of costs and benefits for employees, employers were generally of the opinion that benefits were greater than costs for employees (28.5%), although a significant proportion of employers indicated that costs and benefits were equal (15.1%). Very few employers (6.5 percent) perceived costs to outweigh benefits for employees. Again, however, the proportion of employers who provided no opinion on the issue represented about 50 percent of all those surveyed (Display 18).

A similar pattern was observed in responses from union representatives, many of whom indicated that they did not know whether costs outweigh benefits (or vice versa) for firms (46.0 percent). Among those who did provide an opinion on the topic, some 22.2 percent indicated that costs were greater than benefits for firms, and 19.0 percent that benefits were greater. The proportion indicating that costs and benefits were equal for firms was 12.7 percent. With respect to the balance of costs and benefits for employees, however, union representatives clearly indicated that benefits were greater (42.6 percent), while a smaller proportion considered that costs and benefits were equal (13.1 percent), and a handful of union representatives (6.6 percent) indicated that labour standards imposed greater costs on employees. Some 37.7 percent of union representatives responded "don't know" as regards the balance of costs and benefits for employees.

In conclusion, employers and union representatives have very similar views on the balance of costs and benefits of labour standards for firms and employees. This is somewhat surprising considering the sometimes adversarial roles of these two groups on labour issues. Nonetheless, both employers and union representatives had similar assessments: they indicated costs and benefits as generally balanced for firms, while benefits of labour standards were viewed as outweighing costs for employees.

Display 18
Perceptions of the Balance of Costs and Benefits Based on a Survey of a National Random Sample of 618 Employers

Employer's views on the balance of costs and benefits for the firm*	
Cost are greater	18.2%
Balanced between costs and benefits	19.7%
Benefits are greater	15.6%
Don't know	46.5%
Employer's views on the balance of costs and benefits for employees*	
Cost are greater	6.5%
Balanced between costs and benefits	15.1%
Benefits are greater	28.5%
Don't know	49.8%
Union's views on the balance of costs and benefits for the firm*	
Cost are greater	22.2%
Balanced between costs and benefits	12.7%
Benefits are greater	19.0%
Don't know	46.0%
Union's views on the balance of costs and benefits for employees*	
Cost are greater	6.6%
Balanced between costs and benefits	13.1%
Benefits are greater	42.6%
Don't know	37.7%

* A seven-step rating scale was used for this indicator, where 1 = costs are greater, 4 = balanced, and 7 = benefits are greater. The percentages shown were obtained by the proportion of responses indicating 1, 2 and 3 (costs are greater) vs. 5, 6 and 7 benefits are

greater.

5.3 Socio-Economic Correlates of Compliance

There is a wide range of speculation about the socio-economic impacts of labour standards (as discussed in Section 5.1), but little factual evidence. It is sometimes argued that compliance with labour standards may have a negative impact on productivity, profitability and other firm's outputs by reason of additional costs imposed by the regulations. This would provide a competitive advantage to non-complying firms or foreign competitors which are not subject to similar standards.

This view is often challenged by proponents of labour standards who argue that these regulations provide net benefits to firms, and help prevent short-term and parochial behaviours which would be detrimental to longer-term productivity (for firms) and sustainable economic development (for society).

Overview of Results: The results of this evaluation so far are informative on the potential socio-economic impacts of the Canada Labour Code, although it is difficult to draw definitive conclusions on this topic. Generally, the survey results are consistent with the view that labour standards have only a modest influence on a firm's profitability or outputs. If labour standards impose, as the surveys suggest, only small overall payroll or administrative costs, one should not expect a tight linkage to corporate profit levels and/or growth.

As is shown below, however, the results suggest that the Federal labour standards system is a net surplus for society, considering that benefits —if not for firms at least on the worker's side — were preponderantly reported to outweigh costs. This supports the rationale that labour standards are primarily designed to provide a basic floor of worker's rights, and that the impact of current standards on employer's competitiveness is not significant enough to justify "downgrading" them to foster economic growth.

Secondly, the survey results suggest that non-compliance with labour standards is largely driven by a lack of understanding of the regulations, more so than deliberate violations of the Labour Code.[87] Certainly, the results do not suggest that many employer's use non-compliance as a "strategy" to gain a competitive advantage over other firms by engaging in sub-standard employment. In other words, there is no evidence that certain industries or groups are engaged in "low-road" strategies, where (one could expect) non-compliance would become a factor for profitability, or even survival.

Socio-Economic Correlates: One of the goals of the surveys was to examine the socio-economic aspects of compliance and non-compliance with the Code. Given the complexity of the relationships involved, this exploratory analysis will focus on correlations between firm's outputs and behaviours and compliance indicators, leaving issues of causation to future research. In many ways, understanding the socio-economic characteristics of compliance with the Code will already provide a better understanding of the relationships involved, as very few analyses of this nature have been undertaken so far, particularly in the Canadian context.

In Section 4 of this report, the predictability of compliance with the Code was examined from certain firm's characteristics, such as size, unionization, years of operations, etc. In Display 19, the same type of analysis is reported, but focusing this time on socio-economic characteristics of firms and labour market adjustment behaviours. Some significant correlations were found, but consistent with the observations made above, the link between an employer's socio-economic characteristics and level of compliance was modest at best.

Yet, compliance with the Code is linked to characteristics of expansion, such as increased use of overtime, increased use of part-time staff and outsourcing, profitability and growth in volume of sales. These results are consistent with a view that employers tend to comply more readily with the Code when business is expanding and labour standards are affordable.

Overall, the evaluation suggests a modest link between corporate expansion and profitability and compliance with labour standards. Modest correlations were found between expansion and compliance with the Labour Code, suggesting that standards are more readily complied with when business is good. Certainly, there is no evidence to suggest that labour standards impose costs which significantly impede business or competitiveness.

This general finding notwithstanding, it should be noted that some issues of costs and competitiveness may exist in certain industries. An illustration of this is the grain industry, where stakeholders often reported, in the course of this evaluation, that the business costs of hours of work provisions (scheduling, overtime, etc.) posed particular concerns in terms of international competitiveness due to the nature of their activities. Industry-specific issues of this nature could be a topic for Phase II of this evaluation.

Display 19
Socio-Economic Correlates of Compliance
Based on Data from a Survey of a
National Random Sample of 618 Employers

Current company characteristics	Correlation with a Summary Compliance Indicator*
Operating at full capacity	ns
Expanding operations	ns
Using overtime more	.16

Increasing full-time staff	ns
Increasing part-time/occasional staff	.12
Increasing contracting/outsourcing	.20
Operating profitably	.16
Growth in sales/volume past 5 years	.13
Strategies when business increases	
Hire/recall former full-time staff	ns
Hire/recall former part-time staff	ns
Request overtime from current full-time staff	.25
Request more time from current PT/occasional staff	.17
Recruit new staff	.18
Miss business opportunity	ns

* Where + is compliance. NS = Non significant
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6. Future Directions

6.1 Alternatives

The overall conclusion of this review is that the Part III program is of positive value to Canada, albeit not fully realized because of partial compliance. The evaluation covered a wide range of issues related to the administration of Part III and its impact on the labour market, and with respect to future directions, our comments are sensitive to our Terms of Reference for this report. That is, the mandate of the evaluation team was not to re-design Part III of the Code or the current organizational structure of the program. Our work primarily focuses on the administration of the Code and the degree to which the program achieves its intended objectives.

As noted above, the program is falling short of achieving its objectives because of a spiraling level of complaints, and the need to service complaints with limited personpower and financial resources which limit the proactive efforts needed to obtain a good level of compliance. This may not be sufficient for the future. Indeed, for various reasons, HRDC may wish to more effectively address the roots of the problem of non-compliance noted. Some of these reasons are: (1) at the policy level it is undesirable to have a law on the books which is largely ignored. Faced with this dilemma, governments usually make the law more effective, or withdraw the law. The latter seems an unlikely choice in an area as important to the national infrastructure as the Labour Code; and (2) at the economic level, the evidence put forward in this evaluation suggests that the Part III labour standards have positive benefits overall. These benefits should be increased by better employer compliance. Accordingly, the following future directions are highlighted for consideration by HRDC.

Program Redesign to Reduce Levels of Complaints: A first priority for the Labour Program should be to increase compliance and reverse the spiral of complaints. It is essential that program resources for proactive efforts (education, etc.) be dedicated to achieve these objectives for the program. Non-compliance with the Code is partly a result of a lack of resources within the Labour Program to devote to educational and proactive efforts.

Rationale: The current situation should be of significant concern to the Labour Program as the absence of sufficient educational efforts can result in a "spiral effect" in the sense that more violations will occur by reason of lack of understanding of labour standards, thus forcing LAOs to investigate more complaints and increasing the costs of the purely reactive function of the program. The evidence also suggests that the complaint-driven Part III activities may have impacted on other components of the Labour Program in recent years, such as a notable decrease in preventive safety and health (Part II) interventions.

An Option for Re-design: A New Client Education Strategy: The current education efforts of the program were, in the evaluator's assessment, unsystematic and highly limited in reach. Accordingly it would be highly desirable if the Department presented a business case to the Treasury Board for increased resources to be strategically applied in the area of education and pro-activity which should result in longer-run savings. Such a unit could combine, under an NHQ umbrella, a program dedicated solely to information/education. It would include: a national/regional "1-800" number information service, with Internet information, a strong program of mass mailings to employers, distance-audits of employer compliance; development of educational kits/presentations for LAOs; and development of the data bases describing the population of Part III firms. This business case can be made based on the objectives of the program, need for compliance, and positive economic impacts.

Development of a More Comprehensive Audit System for assessing employers found to be in violation of one element of the Code, to ensure that other violations are not ignored would be another way to reduce non-compliance. This direction could be linked to a new performance indicator, which would be a measure of the tendency of firms, once fully audited, not to generate further complaints or violations.

Examining LAO Concerns: A most valuable resource of the program is the practical experience of LAOs. This should be more fully utilized. The survey of Labour Affairs Officers conducted as part of this evaluation has prompted a number of valuable comments and observations which may be worth reviewing by the Labour Program. There is strong evidence to suggest that some of the LAO concerns reported throughout may deserve more attention, particularly their concerns over workload, training and enforcement tools.

Many suggestions they made which should be considered include for example: developing an MOU with Revenue Canada to determine employee status; making holiday pay in complex industries such as trucking be just a percentage of gross pay; developing a national data base on payment order appeal decisions; developing ways to deal with insurance companies on private insurance compensation decisions; having all collective agreements before CLRB reviewed by LAOs to ensure compliance with Part III; improving the Part III poster to include key provision details, and to make it more eye-catching; developing more training for HRCC managers on Part III; and developing presentation packages for LAOs for employer seminars.

A particular concern of LAOs with respect to enforcement was the need to review the procedure for enforcing payment orders and consideration should be given to the establishment of a system of fines and tickets as an alternative to prosecution.

Cooperative Approaches: Cooperative strategies with the Provinces and industry associations for the delivery of some of the services associated with the Code deserve more attention by the Department. This report underlines the importance of improved education and information dissemination, and that this could be consistent with new arrangements with the Provinces and with a much higher level of proactive intervention.

At the same time, the evaluation team shares the views of most stakeholders that privatization of the enforcement function of the program would not work, and would in the final analysis be to the detriment of attaining the important objectives of labour standards. Other alternative approaches should be considered for First Nations, for example, delivery of services through Tribal Councils, and a wide range of related issues should be examined for First Nations, including cultural training for LAOs. Self-regulation through mechanisms such as joint committees should be facilitated, but does not appear to be a high-priority approach to improve program delivery.

New Approaches To Non-Standard Work: Non-standard employment is the fastest growing part of the Canadian labour market. It is widely recognized that Federal and Provincial labour standards are not addressing the needs of this segment of the labour force. The Federal Government should take some leadership with the provinces in this particular area and on the perceived policy gaps which are emerging. The essence of the question is how to extend labour standard protections to non-standard workers who are in every sense really "dependent contractors". A proactive education program with stakeholders is part of the answer.

Consider Eliminating the Long Hours Permits: Finally, the researchers offer one specific suggestion relating to the subject of hours of work. The hours of work provisions of the Code involve a complex system of permits which are resented by employers and at the same time, are not heavily utilized if the evidence from other jurisdictions is relevant. That being the case, other avenues could be explored for governing long hours of work.

One useful option to consider is a complete elimination of the overtime permit system, but the introduction of two other provisions (guaranteeing the right to refuse overtime together with the option of taking time off in lieu of overtime rather than overtime pay) as an alternate means of limiting unusually long hours of work. This direction would be seen by firms as offering them more flexibility and by employees of empowering them relating to their rights to refuse to work overtime hours. Another option would be to impose a second rate (significantly higher) of overtime premium when workers work more than the current ceiling on hours of work .[88]

6.2 Discussion of a Second Phase Evaluation

This evaluation report does not cover all of the important avenues of inquiry of interest in the Part III program. As is common with reports of this nature, other issues and avenues for useful public policy exploration have emerged which are central to the Labour Program's mandate and Part III of the Code. Some such issues are identified here, for a possible second phase of the evaluation which could build on important learning which has occurred in the initial research for the evaluation.

Related issues which could be considered in a second phase of work include:

1. **A Review of Best Practices To Obtain Compliance:** HRDC could review best practices (i.e. objectives and the achievement of these objectives) in a variety of jurisdictions. An inter-jurisdictional survey (Canada and international) could focus on the question of the degree to which standards have affected competitiveness, efficiency and equity in other jurisdictions/countries.

   What can be learned from other jurisdictions about improving compliance with labour standards? Are there any new levers for achieving labour standards objectives? A model for this type of study could be found in the survey of international practices conducted for the Department's 1996 Evaluation of the Canada Pension Plan (Disability Component).

The research could examine what other measures, other than labour standards, could be used to achieve these same objectives. The tax literature might also represent a useful area for examining these issues.

2. **How is the Code Adapting To the New World Of Work?** The report suggested that the Code appears to be "falling behind" changes in the labour market. The changing environment of work clearly has important implications for equity, private efficiency, and with compliance with the objectives of the Code. In the emerging new environment, what is the role for labour standards? What do we do if labour standards cannot reach these newer groups of workers? Should the Code be used to enhance their bargaining power?

   There have been very major changes in labour market activity. The supply side changes include demographic shifts, changes in labour force participation, technology and education changes; while the demand side changes include contracting out, changing attitudes by firms regarding hiring of labour, the rapid growth of smaller firms, and the faster increase in the provision of services than the provision of goods. What are the implications of these changes for compliance with objectives of labour standards?

   A case study of the trucking industry — with its wide use of alternative work provisions — seems particularly attractive as an approach to these issues.

3. **Other Equity/Efficiency Issues:** HRDC has a significant interest in ensuring that Canada's labour market operates as efficiently and as equitably as possible. But these two worthwhile objectives — efficiency and equity — are often inconsistent with each other. The administration of the Code, in other words, reflects this dynamic tension: key issues to be considered should include the full range of issues such as between jurisdiction harmonization, consideration of internal labour markets of firms as well as broader labour markets, and consistency with international agreements and labour accords (e.g. NAFTA).

4. **Employee Concerns:** The second phase of this evaluation should include a survey of complainants to obtain a better perspective of employees with regards to labour standards and the Labour Program. This area represents a major gap in the evaluation so far, and one which could be usefully filled in a

second phase of the evaluation. Development of a study component will be particularly challenging because of the confidentiality issues which surround the complaint process.

5. **Examination of Costs and International Competitiveness:** Part of an expanded work plan should relate to international competitiveness. The responses of the larger, export oriented firms which apparently comply with the Code noted modest costs, but nevertheless expressed the view that the Code may be inhibiting their international competitiveness.

   Indeed, labour and environmental standards have in fact increased the awareness level of firms, employees and unions. One reason for this is that the internationalization of business has also resulted in a comparable internationalization of the Canadian labour force.

   To meet this concern, the second phase of the evaluation should focus on a number of macroeconomic and international issues not fully dealt with in the first phase of our work. One of the key gaps in our view relates to the linkage of labour standards to the competitiveness and global competition of Canadian firms. This may be of particular interest in the case of the international shipping of grain, where high concerns and higher costs were noted.

   Such a sub-study could be a case study of costs and impacts on the grain industry and other sectors, possibly with case studies, with a survey of employers' detailed views of costs (see Technical Note #1 - Planning Report, November 1997), or with a more exact examination of costs and specific Part III provisions (econometric analysis).

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Appendix A: Regulatory Parameters of the Canada Labour Code

Hours of Work: Standard hours are 8 in a day and 40 in a week, with maximum hours of 48. At least one and one-half times the regular rate of pay must be paid for hours worked in excess of standard hours.

Minimum Wage: Minimum wage rates are set, subject to revision from time to time by order-in-council.

Equal Wages: Employers are required to pay equal wages for work of equal value within the meaning of the *Canadian Human Rights Act*.

Annual Vacations: An employee is entitled to at least 2 weeks vacation annually with vacation pay of not less than 4 per cent of gross earnings. After 6 consecutive years of employment with one employer, an employee is entitled to 3 weeks vacation with pay equivalent to 6 per cent of gross earnings.

General Holidays: Employees are entitled to nine holidays with pay each year: New Year's Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, and Boxing Day.

Maternity-Related Reassignment and Leave, Parental Leave: The Code provides that an employee who is pregnant or nursing may request that the employer temporarily modify her job duties or reassign her to another job, where reasonably practicable; or an employee who has worked for the same employer for at least 6 months is entitled to up to 17 weeks of maternity leave. An additional leave of up to 24 weeks between the two parents is available to a natural or adoptive parent who has been employed by the same employer for at least 6 months and have or will has care and custody of a child.

Bereavement Leave: All employees are entitled to bereavement leave on any of the three days immediately following the death of a member of their immediate family. Employees with three or more months of service are entitled to be paid for such leave days.

Group Termination of Employment: If an employer intends to terminate the employment of 50 or more employees in an industrial establishment within any 4-week period, at least 16 weeks advance notice must be given in writing to the Minister of Labour, Minister of Human Resources Development, the Canada Employment Commission, any affected employee, and any trade union recognized as the bargaining agent for the affected employees. Moreover, the employer must establish a joint committee with at least half of its members representing affected employees for the purpose of developing an adjustment program to eliminate the need for the termination of employment or to minimize the impact of the termination on affected workers.

Individual Termination of Employment: Provided the employee has at least 3 consecutive months of service, employers are required to give individual employees two weeks written notice of termination, or two weeks pay in lieu of notice, except where the employee is dismissed for just cause.

Severance Pay: Employees with at least 12 consecutive months of service are entitled to severance pay on termination. except in case of dismissal for just cause. The amount of entitlement is the greater of two days pay for each completed year of service or five days pay.

Garnishment of Wages: An employee may not be disciplined because garnishment proceedings may be or have been taken against him or her.

Sick Leave: An employee who has 3 or more months of continuous employment may not be disciplined, demoted, laid off, suspended, or dismissed because of absence due to illness or injury, provided the absence does not exceed 12 weeks and the employee, if requested in writing by the employer, provides the employer with a doctor's certificate certifying that the employee was not able to work during that period.

Work-Related Illness or Injury: Employees are protected from dismissal, suspension, lay-off, demotion, or discipline because of absence from work due to work-related illness or injury. During such absences, employees are entitled to wage replacement, payable at an equivalent rate to that provided for under applicable workers' compensation legislation in the employee's province of permanent residence.

Unjust Dismissal: After 12 consecutive months of employment, employees who are not managers nor subject to a collective agreement and believe they have been unjustly dismissed may lodge a written complaint of unjust dismissal with the Labour Program. The complaint must be lodged no later than 90 days from the date of the dismissal. Labour Affairs Officers will attempt to arrange a mutually satisfactory solution to the dispute.

Payment of Wages: Employers are required to pay employees on the regular pay-day as established by the employer's practice and to pay any wages or other amounts such as overtime pay, holiday pay, severance pay, or bereavement pay within 30 days of entitlement.

Deductions From Wages: Employers may not make deductions from wages or other amounts due to an employee unless the deduction is required by federal or provincial law, authorized by a court order or collective agreement, or where the deduction is related to amounts authorized in writing by an employee, or an overpayment of wages by the employer.

Sexual Harassment: The Code requires employers to develop and post a policy of sexual harassment.

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A particular concern of LAOs with respect to enforcement was the need to review the procedure for enforcing payment orders and consideration should be given to the establishment of a system of fines and tickets as an alternative to prosecution.

Cooperative Approaches: Cooperative strategies with the Provinces and industry associations for the delivery of some of the services associated with the Code deserve more attention by the Department. This report underlines the importance of improved education and information dissemination, and that this could be consistent with new arrangements with the Provinces and with a much higher level of proactive intervention.

At the same time, the evaluation team shares the views of most stakeholders that privatization of the enforcement function of the program would not work, and would in the final analysis be to the detriment of attaining the important objectives of labour standards. Other alternative approaches should be considered for First Nations, for example, delivery of services through Tribal Councils, and a wide range of related issues should be examined for First Nations, including cultural training for LAOs. Self-regulation through mechanisms such as joint committees should be facilitated, but does not appear to be a high-priority approach to improve program delivery.

New Approaches To Non-Standard Work: Non-standard employment is the fastest growing part of the Canadian labour market. It is widely recognized that Federal and Provincial labour standards are not addressing the needs of this segment of the labour force. The Federal Government should take some leadership with the provinces in this particular area and on the perceived policy gaps which are emerging. The essence of the question is how to extend labour standard protections to non-standard workers who are in every sense really "dependent contractors". A proactive education program with stakeholders is part of the answer.

Consider Eliminating the Long Hours Permits: Finally, the researchers offer one specific suggestion relating to the subject of hours of work. The hours of work provisions of the Code involve a complex system of permits which are resented by employers and at the same time, are not heavily utilized if the evidence from other jurisdictions is relevant. That being the case, other avenues could be explored for governing long hours of work.

One useful option to consider is a complete elimination of the overtime permit system, but the introduction of two other provisions (guaranteeing the right to refuse overtime together with the option of taking time off in lieu of overtime rather than overtime pay) as an alternate means of limiting unusually long hours of work. This direction would be seen by firms as offering them more flexibility and by employees of empowering them relating to their rights to refuse to work overtime hours. Another option would be to impose a second rate (significantly higher) of overtime premium when workers work more than the current ceiling on hours of work .[88]

6.2 Discussion of a Second Phase Evaluation

This evaluation report does not cover all of the important avenues of inquiry of interest in the Part III program. As is common with reports of this nature, other issues and avenues for useful public policy exploration have emerged which are central to the Labour Program's mandate and Part III of the Code. Some such issues are identified here, for a possible second phase of the evaluation which could build on important learning which has occurred in the initial research for the evaluation.

Related issues which could be considered in a second phase of work include:

1. **A Review of Best Practices To Obtain Compliance:** HRDC could review best practices (i.e. objectives and the achievement of these objectives) in a variety of jurisdictions. An inter-jurisdictional survey (Canada and international) could focus on the question of the degree to which standards have affected competitiveness, efficiency and equity in other jurisdictions/countries.

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Appendix B: Survey Forms

Survey Forms

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Appendix C: Selected Survey Responses

Overview: This Appendix contains statistical displays summarizing responses for key questions for three surveys conducted as part of this evaluation. Some questions from the *Survey of Employers* and the *Survey of Unions* which were used to create the overall *indicator of compliance* discussed in Appendix D are not summarized in the following tables. These questions were not designed to provide a precise measure of non-compliance on specific Code items, and can be misleading if not interpreted in the context of other responses from the survey (e.g. questions on severance pay must exclude employers with no terminations in 1996). Details on the overall indicator of non-compliance are provided in Appendix D, and other statistics may be obtained separately from this report.

Statistics: Most of the displays show the percentage of LAOs or employers or union representatives which gave a particular response or set of responses to the survey questions. Responses from employers are weighted to represent the overall population of Federally-regulated employers (generally as estimated to exist by LOIS), to be representative of compliance levels, industry, province and size. Survey responses of LAOs (a census survey) are not weighted. Nor are the more exploratory responses of union representatives weighted. Notes are provided with most of the tables.

A: TABLES OF LAO RESPONSES

LAO DISPLAY A.1
SOME LAO CHARACTERISTICS
(BASED ON REPORTS OF A SAMPLE OF 74 LAOs)

A.1 AVERAGE YEARS WORKING ON PART III	8.8
A.2 AVERAGE YEARS WORKING IN THE LABOUR PROGRAM	10.8
A.3 AVERAGE YEARS DOING SIMILAR WORK ELSEWHERE	7.1
A.4 -A- PERCENTAGE OF TIME SPENT ON LABOUR PROGRAM ACTIVITIES*	
(A) PROGRAM ADMINISTRATION	12.0%
(B) GENERAL SELF-STUDY/LEARNING	8.0%
(C) FIRE CODE	4.0%
(D) EMPLOYMENT EQUITY	1.0%
(E) PAY EQUITY	1.0%
(F) PART I	.0%
(G) PART II	25.0%
(H) PART III	49.0%
A.4 -B- PERCENTAGE OF TIME SPENT ON PART III ACTIVITIES*	
(A) SELF-STUDY/TRAINING RELATED TO PART III	6.0%
(B) RESPONDING TO EMPLOYER INQUIRIES	10.0%
(C) PROVIDING SEMINARS FOR EMPLOYERS	4.0%
(D) INSPECTIONS/SPOT CHECKS	6.0%
(E) MEETING WITH EMPLOYERS ABOUT COMPLAINTS	17.0%
(F) MEETING WITH EMPLOYEES/UNIONS ABOUT COMPLAINTS	11.0%
(G) MEETING WITH EMPLOYEES/UNIONS TO PROVIDE INFO.	4.0%
(H) MEDIATION BETWEEN EMPLOYERS AND EMPLOYEES	14.0%
(I) DEALING WITH PAYMENT ORDERS, APPEALS, ETC.	9.0%
(J) REPORTING ON PART III ACTIVITIES	7.0%
(K) OTHER PART III ACTIVITIES	7.0%

Totals to 100%

LAO DISPLAY A.2
SATISFACTION WITH LABOUR PROGRAM AND PART III ROLES
(BASED ON REPORTS OF A SAMPLE OF 74 LAOs)
(Percentages include multiple answers and need not total 100%)

B.1 -A- SATISFACTION WITH WORK IN THE LABOUR PROGRAM*	% SATISFIED
(A) PROGRAM ADMINISTRATION	27.4%
(B) GENERAL SELF-STUDY/LEARNING	30.3%
(C) FIRE CODE	30.0%
(D) EMPLOYMENT EQUITY	--
(E) PAY EQUITY	--
(F) PART I	--
(G) PART II	61.3%
(H) PART III	58.8%
B.1 -B- SATISFACTION WITH WORK IN PART III*	
(A) SELF-STUDY/TRAINING RELATED TO PART III	28.6%
(B) RESPONDING TO EMPLOYER INQUIRIES	67.2%
(C) PROVIDING SEMINARS FOR EMPLOYERS	65.5%
(D) INSPECTIONS/SPOT CHECKS	48.2%
(E) MEETING WITH EMPLOYERS ABOUT COMPLAINTS	78.5%
(F) MEETING WITH EMPLOYEES/UNIONS ABOUT COMPLAINTS	75.4%
(G) MEETING WITH EMPLOYEES/UNIONS TO PROVIDE INFO.	67.3%
(H) MEDIATION BETWEEN EMPLOYERS AND EMPLOYEES	76.2%
(I) DEALING WITH PAYMENT ORDERS, APPEALS, ETC.	46.9%
(J) REPORTING ON PART III ACTIVITIES	34.4%
(K) OTHER PART III ACTIVITIES	50.0%

* A seven-step scale was used for this indicator, where 1 = not satisfied, 4 = adequate, and 7 = very satisfied. Percentages shown were obtained by totalling the proportion of responses indicating 5, 6 and 7.

LAO DISPLAY A.3
LAO PERCEPTIONS OF OBSTACLES TO EFFECTIVE DELIVERY OF PART III

(BASED ON REPORTS OF A SAMPLE OF 74 LAOs)
(Percentages include multiple answers and need not total 100%)

C.1 PERCEIVED OBSTACLES TO EFFECTIVE DELIVERY OF PART III *	% MAJOR PROBLEMS
(A) EMPLOYERS UNAWARE THEY ARE FEDERALLY-REGULATED	26.1%
(B) EMPLOYERS UNAWARE OF SPECIFIC PROVISIONS	50.0%
(C) CHANGING EMPLOYER	7.2%

OWNERSHIP, LOCATIONS	
(D) EMPLOYER RESISTANCE TO PART III	35.3%
(E) EMPLOYER/EMPLOYEE COLLABORATION TO AVOID PART III	16.7%
(F) LACK OF EMPLOYEE AWARENESS OF THEIR RIGHTS	40.9%
(G) DETERMINING WHO IS AN EMPLOYEE	57.4%
(H) MAINTAINING CONSISTENCY IN PART III DETERMINATIONS	46.3%
(I) VAGUENESS OF CODE	35.8%
(J) LACK OF ENFORCEMENT	57.4%
(K) CONFLICTING NEEDS OF INDUSTRY	19.7%

* A three-step scale was used for this indicator, where 1 = no problem, 2 = minor problem, and 3 = major problem. Percentages shown were obtained to indicate the proportion of responses indicating MAJOR PROBLEMS.

LAO DISPLAY A.4
LAO REPORTS ON PRACTICES IN VISITS TO WORKPLACES

(BASED ON REPORTS OF A SAMPLE OF 74 LAOs)
(Percentages include multiple answers and need not total 100%)

C.3 WHEN VISITING WORKPLACES, HOW FREQUENTLY DO YOU:	
(A) MEET WITH THE EMPLOYER TO GATHER INFORMATION	74.5%
(B) MEET WITH COMPLAINANT TO GATHER INFORMATION	51.8%
(C) MEET WITH EMPLOYEES/UNION STAFF TO GIVE OR GATHER INFO.	20.1%
C.4 WHEN VISITING WORKPLACES, HOW FREQUENTLY DO YOU:	
(A) CHECK TO SEE IF THE LABOUR BRANCH POSTER IS POSTED	31.3%
(B) IDENTIFY A VIOLATION WHICH IS NOT RECORDED TO LOIS	13.1%

View LAO DISPLAY A.5

LAO DISPLAY A.6
EMPLOYER, UNION, EMPLOYEE UNDERSTANDING OF PART III PROVISIONS

(BASED ON REPORTS OF A SAMPLE OF 74 LAOs)
(Percentages include multiple answers and need not total 100%)

	FIRMS	UNIONS	EMPLOYEES
E.1 HIGH LEVEL OF UNDERSTANDING OF THE CODE			
(A) MAXIMUM HOURS OF WORK	42.0%	62.5%	26.1%
(B) NORMAL HOURS OF WORK	39.1%	62.5%	27.5%
(C) OVERTIME PAY RATE	54.4%	67.2%	41.2%
(D) MINIMUM WAGE	70.6%	69.8%	64.7%
(E) EQUAL WAGES	23.5%	36.0%	11.8%
(F) ANNUAL VACATIONS	52.2%	67.2%	47.8%
(G) STATUTORY HOLIDAYS	21.7%	46.9%	18.8%
(H) MATERNITY/PARENTAL LEAVE	31.9%	44.4%	21.7%
(I) MATERNITY-RELATED RE-ASSIGNMENT	13.2%	31.7%	13.2%
(J) BEREAVEMENT LEAVE	44.9%	57.1%	37.7%
(K) INDIVIDUAL TERMINATIONS	30.4%	57.1%	15.9%
(L) GROUP TERMINATIONS	16.1%	39.7%	6.7%
(M) SEVERANCE PAY	29.0%	48.4%	17.4%
(N) SICK LEAVE/WORK-RELATED ILLNESS	15.9%	37.5%	10.1%
(O) TIMELY PAYMENT OF WAGES	33.3%	55.6%	33.3%
(P) POLICY ON SEXUAL HARASSMENT	22.1%	38.1%	16.2%

*A seven-step scale was used for this indicator, where 1 = no understanding, 4 = adequate understanding, and 7 = excellent understanding. Percentages shown were obtained by totalling the proportion of responses indicating 5, 6 and 7.

LAO DISPLAY A.7
INFORMATION FOR EMPLOYEES

(BASED ON REPORTS OF A SAMPLE OF 74 LAOs)
(Percentages include multiple answers and need not total 100%)

E.2	HIGH SATISFACTION WITH PART III POSTER FOR EDUC. PURPOSES*	19.3%
E.3	BEST WAYS TO CONVEY PART III INFORMATION TO EMPLOYEES	
	EMPLOYERS SHOULD DISTRIBUTE MORE	63.5%

	DETAILED PART III INFO.	
	DETAILED BROCHURES IN ALL WORKPLACES/HR CANADA CENTRES	64.9%
	BETTER WRITTEN INFO./BROCHURES PROVIDED TO EMPLOYEES	36.5%
	INFO. SHOULD BE MADE AVAILABLE BY INTERNET	43.2%
	TOLL-FREE NUMBER TO PROVIDE INFO./ANSWER QUESTIONS	58.1%
	LABOUR BRANCH SHOULD MAIL UNION LOCALS INFO.	36.5%
	UNION SHOULD PROVIDE WRITTEN PART III INFO. TO MEMBERS	27.0%
	LAOs SHOULD MEET PERIODICALLY WITH UNION/EMPLOYEES	58.1%
	EMPLOYERS SHOULD PROVIDE INFO. ABOUT PART III TO EMPLOYEES	51.4%
	OTHER WAY INFO. SHOULD BE CONVEYED TO EMPLOYEES	14.9%
	NONE OF THE ABOVE	8.1%

* A seven-step scale was used for this indicator, where 1 = not satisfied, 4 = average, and 7 = very satisfied. Percentages shown were obtained by totaling the proportion of responses indicating 5, 6 and 7.

LAO DISPLAY A.8
ALTERNATIVES TO IMPROVE PART III

(BASED ON REPORTS OF A SAMPLE OF 74 LAOs)
(Percentages include multiple answers and need not total 100%)

D.5	*-A- SUGGESTED LABOUR PROGRAM IMPROVEMENTS*	
	MORE PART III INFORMATION FOR FIRMS	63.5%
	MORE PART III INFORMATION FOR UNIONS	37.8%
	MORE VISITS/HELP FOR FIRMS FROM LAOs	68.9%
	INCREASED LABOUR PROG. SEMINARS TO EXPLAIN PART III	62.2%
	BETTER WRITTEN INFO. FOR EMPLOYEES FROM LABOUR BRANCH	25.7%
	PART III INFO. ON THE INTERNET	27.0%
	TOLL-FREE NUMBER TO ACCESS PART III INFO.	41.9%
	DISTRIBUTION OF INFO. THROUGH ASSOCIATIONS	33.8%
	STRONGER ENFORCEMENT TOOLS	78.4%
	MORE INSPECTIONS	56.8%
	ANNUAL SELF-REPORT BY FIRMS ON LABOUR PRACTICES	24.3%
	OTHER WAY TO IMPROVE COMPLIANCE	16.2%

	NONE OF THE ABOVE	1.4%
	-B- DELIVERY ALTERNATIVES	
	ESTABLISH INDUSTRY-LEVEL MECHANISMS FOR DISPUTES	23.0%
	CO-DELIVERY OF STANDARDS IN COOPERATION WITH PROV./TERR.	39.2%
	(i)IN WHICH AREA(S)?*	
	JOINT INTAKE	28.4%
	INFORMATION MANAGEMENT SERVICES	13.5%
	EDUCATION	40.5%
	JOINT DELIVERY OF SERVICES TO REMOTE AREAS	31.1%
	OTHER AREAS	6.8%
	PRIVATIZATION OF ANY ASPECTS OF ENFORCEMENT	8.1%
	ALTERNATIVE DELIVERY	12.2%
	OTHER DELIVERY ALTERNATIVE	4.1%
	NONE OF THE ABOVE	16.2%
D.6	SHOULD NON-COMPLYING FIRMS PAY ADMINISTRATIVE COSTS?	
	YES, BUT ONLY FIRMS HAVING REPEATED COMPLAINTS	77.6%
	YES, ALL FIRMS	9.0%
	NO	13.4%

* Percentages based on the sub-sample of those who indicated co-delivery of labour standards in cooperation with the Provinces/Territories.

LAO DISPLAY A.9
LAO VIEWS OF ISSUES IN THE ADMINISTRATION OF PART III

(BASED ON REPORTS OF A SAMPLE OF 74 LAOs)
(Percentages include multiple answers and need not total 100%)

D.3	EXTENT TO WHICH THE FOLLOWING TOOLS AND PROCEDURES ARE EFFECTIVE*	
	(A) OBTAINING AVCs	72.2%
	(B) FACILITATING PERMITS	66.7%
	(C) TAKING EMPLOYEE VOTES	30.8%
	(D) MEDIATION	85.0%
	(E) PAYMENT ORDERS	80.0%
F.1	IS CONSISTENCY IN INTERPRETING PART III A PROBLEM?	
	A GREAT PROBLEM	37.3%
	A MODERATE PROBLEM	47.8%
	A MINOR PROBLEM	14.9%

F.2	ARE LAO DUTIES AND POWERS CLEAR AS REGARDS PART III?	
	YES	82.5%
	NO	17.5%
F.3	WHO DO LAOs REPORT TO?	
	LABOUR PROGRAM MANAGER	83.8%
	HRDC MANAGER/DIRECTOR	13.2%
	OTHER	4.4%
F.4	FOLLOWING ASPECTS OF LAOs' WORK ARE CLEAR**	
	(A) WHO TO ASK FOR PART III INFORMATION	86.2%
	(B) YOUR ROLE WITHIN THE HRDC	73.1%
	(C) ROLE OF YOUR MANAGER RE PART III	62.1%
	(D) PRIORITY OF PART III WITHIN HRDC	40.0%
	(E) ROLES OF MANAGER VERSUS TECHNICAL ADVISOR	68.8%

* A seven-step scale was used for this indicator, where 1 = not effective, 4 = average, and 7 = very effective. Percentages shown were obtained by totalling the proportion of responses indicating 5, 6 and 7.

** A seven-step scale was used for this indicator, where 1 = not clear, 4 = average, and 7 = very clear. Percentages shown were obtained by totalling the proportion of responses indicating 5, 6 and 7.

LAO DISPLAY A.10
LAO REPORTS ON OBSTACLES AND STRESSES IN DELIVERY OF PART III

(BASED ON REPORTS OF A SAMPLE OF 74 LAOs)
(Percentages include multiple answers and need not total 100%)

F.6	OBSTACLES FACED BY LAOs	
	WORKLOAD	79.1%
	LACK OF EDUCATIONAL MATERIALS	14.9%
	LACK OF MANAGERS UNDERSTANDING PART III	22.4%
	OTHER	46.3%
	NONE OF THE ABOVE	13.4%
G.1	IS IT A PROBLEM TO WORK IN MANY SPECIALIZED AREAS?	
	YES, TOO MUCH TO KNOW	32.8%
	YES, REQUIRED SKILLS CANNOT BE FOUND IN ONE PERSON	18.0%

	NO, NOT A PROBLEM	49.2%
G.2	HIGH SATISFACTION WITH CURRENT SKILLS AND TRAINING *	
	(A) SKILLS/TRAINING IN INDUSTRIAL RELATIONS	48.5%
	(B) SKILLS/TRAINING IN ACCOUNTING/ADMIN. SYSTEMS	47.1%
	(C) SKILLS/TRAINING IN LAW AND THE CODE	64.6%
	(D) SKILLS/TRAINING IN INVESTIGATIONS	75.0%
	(E) SKILLS/TRAINING IN MEDIATION	50.0%
	(F) SKILLS/TRAINING IN NEGOTIATION	58.7%
	(G) SKILLS/TRAINING IN COMMUNICATIONS	82.1%
	(H) SKILLS/TRAINING IN COUNSELLING/EDUCATION	74.6%
	(I) SKILLS/TRAINING IN LABOUR BRANCH SYSTEMS	49.3%
	(J) SKILLS/TRAINING IN OTHER AREAS	25.0%
G.3	SIGNIFICANT STRESSES IN ADMINISTRATION OF PART III **	
	(A) DEALING WITH HOSTILE EMPLOYERS	61.8%
	(B) EXTENSIVE TRAVEL	10.9%
	(C) LACK OF TECHNICAL SUPPORT	43.9%
	(D) LACK OF MANAGEMENT SUPPORT	39.1%
	(E) DEALING WITH PART II AS WELL AS PART III	36.5%
	(F) TOO LARGE OF A WORKLOAD	76.5%
	(G) OTHER SIGNIFICANT STRESS ADMINISTERING PART III	91.7%

* A seven-step scale was used for this indicator, where 1 = very dissatisfied, 4 = adequate, and 7 = very satisfied. Percentages shown were obtained by totalling the proportion of responses indicating 5, 6 and 7.

**A seven-step scale was used for this indicator, where 1 = not stressful, 4 = adequate, and 7 = very stressful. Percentages shown were obtained by totalling the proportion of responses indicating 5, 6 and 7.

B: TABLES OF EMPLOYER RESPONSES

EMPLOYER DISPLAY B.1
CHARACTERISTICS OF PART III EMPLOYERS

(BASED ON A SAMPLE OF 617 EMPLOYERS)

(Percentages include multiple answers and need not total 100%)

A.1	THE FIRM WAS ENGAGED IN FOLLOWING FEDERALLY-REGULATED INDUSTRIES	
	INTERPROVINCIAL/INTERNATIONAL TRUCKING	54.8%
	INTERPROVINCIAL/INTERNATIONAL TRANSPORTATION/SHIPPING	15.7%
	BANKING	.6%
	TELECOMMUNICATION	8.5%
	GRAIN ELEVATORS AND RELATED OPERATIONS	5.9%
	OTHER	14.6%
A.2	FIRM'S REVENUE IS DERIVED FROM INTERNATIONAL BUSINESS	
	NONE	51.6%
	1% TO 20%	20.7%
	OVER 20%	27.7%
A.3	FIRMS FIRST BEGAN OPERATION	
	BEFORE 1990	73.5%
	BETWEEN 1990 AND 1997	18.4%
	DON'T KNOW	8.0%
A.4	FIRMS HAVE BEGUN BUSINESS IN A FEDERALLY-REGULATED SECTOR	
	BEFORE 1990	49.0%
	BETWEEN 1990 AND 1997	20.6%
	DON'T KNOW	30.4%
A.5	YEAR WHEN FIRM WAS FIRST AWARE OF THE COVERAGE OF PART III	
	BEFORE 1990	24.2%
	BETWEEN 1990 AND 1997	20.3%
	ONLY THROUGH THIS SURVEY	12.9%
	DON'T KNOW	42.6%
A.6	THE NATURE OF THE FIRM	
	A PRIVATE SECTOR CORPORATION	77.3%
	A PRIVATELY OWNED PARTNERSHIP OR PROPRIETORSHIP	12.7%
	A CROWN CORPORATION	1.8%
	A FIRST NATION OR FIRST NATIONS ENTERPRISE	8.3%
A.7	THE FIRM BELONGS TO AN INDUSTRY/OTHER ASSOCIATION	
	YES	37.4%
	NO	62.6%
A.8	PERSON WHO DEALS WITH PERSONNEL MATTERS IN THE FIRM	
	OWNER	43.1%
	SECRETARY/BOOKKEEPER	45.5%
	ACCOUNTANT	23.5%

	FULL-TIME HUMAN RESOURCES MANAGER	5.7%
	ONE OR MORE OTHER H.R. PERSONS	27.7%
	(B) FORMAL TRAINING IN THE FOLLOWING AREAS	
	ACCOUNTING/BOOKKEEPING	57.2%
	HUMAN RESOURCES	18.7%
	LAW	3.3%
	OTHER AREAS	6.2%
	NONE OF THE ABOVE	37.2%
A.9	YEARS THE MOST EXPERIENCED PERSON HAS BEEN DEALING WITH PART III MATTERS	
	LESS THAN 5 YEARS	18.3%
	OVER 5 YEARS	57.3%
	DON'T KNOW	24.4%

EMPLOYER DISPLAY B.2
INFORMATION AND EXPERIENCES WITH LAOs AND THE LABOUR PROGRAM

(BASED ON A SAMPLE OF 617 EMPLOYERS)
(Percentages include multiple answers and need not total 100%)

B.1	HOW INFORMATION ABOUT PART III IS PROVIDED TO MANAGERS	
	LABOUR PROGRAM BROCHURES MADE AVAILABLE	60.4%
	OTHER WRITTEN INFO. DISTRIBUTED TO MANAGERS	23.7%
	INFO./TRAINING PROVIDED BY THE FIRM	14.6%
	SEMINARS/COUNSELLING PROVIDED BY LABOUR PROGRAM	6.9%
	OTHER INFO. PROVIDED BY OWNER/MANAGER VERBALLY	19.6%
	OTHER METHOD OF PROVIDING PART III INFO.	5.3%
	NO PART III INFO. PROVIDED/OBTAINED	22.6%
B.2	HOW INFORMATION ABOUT PART III IS PROVIDED TO EMPLOYEES	
	PART III REQUIREMENTS POSTED	23.4%
	LABOUR PROGRAM BROCHURES ARE POSTED/DISTRIBUTED	19.2%
	OTHER WRITTEN INFO. IS DISTRIBUTED TO EMPLOYEES	10.7%
	LAOs EXPLAIN PART III TO EMPLOYEES WHEN VISITING	8.3%
	POSTED LABOUR BRANCH NOTICES (SCHEDULE III/IV)	5.0%
	PART III INFO. PROVIDED OTHER WAY TO EMPLOYEES	13.8%
	NO PART III INFO. PROVIDED TO EMPLOYEES	44.2%

B.3	FIRMS' EXPERIENCE WITH LAOs AND PART III	
	LAOs PROVIDED A SEMINAR	1.6%
	LAOs PROVIDED BROCHURES	19.1%
	LAOs PROVIDED COUNSELLING	10.8%
	REQUESTED INFO. FROM LABOUR PROGRAM/LAOs RE PART III	33.4%
	LAO IDENTIFIED NON-COMPLIANCE WHEN REVIEWING RECORDS	5.1%
	LAO VISITED FIRM TO INVESTIGATE EMPLOYEE COMPLAINT	10.4%
	LAO MEDIATED/NEGOTIATED SETTLEMENT OF EMPLOYEE COMPLAINT	12.5%
	LAO FOUND FIRM WAS IN THE WRONG	5.6%
	LAO INVESTIGATING FOUND COMPLAINT WAS UNFOUNDED	11.9%
	LAO WROTE ORDER TO PAY EMPLOYEE WAGES/SEVERANCE PAY	4.3%
	LAO IDENTIFIED NON-COMPLIANCE THAT WAS REMEDIED	5.0%
	HAD NO CONTACTS WITH LABOUR BRANCH OR LAOs	52.4%

EMPLOYER DISPLAY B.3
FIRMS SATISFACTION WITH ASPECTS OF LAO AND LABOUR PROGRAM
CONTACTS, COMPLIANCE AND PRIORITIES

(BASED ON A SAMPLE OF 617 EMPLOYERS)
(Percentages include multiple answers and need not total 100%)

B.4	EMPLOYER SATISFACTION WITH LAO'S AND ASPECTS OF LABOUR PROGRAM*	% SATISFIED
	(A) CLARITY/HELPFULNESS OF INFORMATION	64.5%
	(B) FAIRNESS OF THE LAO(S)	60.4%
	(C) TIME TAKEN TO SOLVE PROBLEM(S)	57.0%
	(D) AMOUNT OF EXTRA PAPERWORK REQUIRED	42.7%
	(E) OUTCOME OF INVESTIGATION(S)	53.1%
	(F) OUTCOME OF MEDIATION(S)	52.9%
	(G) PAYMENT ORDERS GIVEN	39.9%
	(H) CONSISTENCY BETWEEN LAOs	56.5%
B.5	REASONS FOR THE FIRM'S NON-COMPLIANCE IN 1996	
	FIRM WAS ALWAYS IN COMPLIANCE	73.6%
	INCORRECT INTERPRETATION OF PART III OF CODE	6.1%
	FIRM UNAWARE OF PART III	14.6%

	REQUIREMENTS	
	FIRM WAS UNDER PROVINCIAL-NOT FEDERAL JURISDICTION	4.1%
	NEW HUMAN RES. STAFF WERE UNFAMILIAR WITH PART III	3.7%
	OWNERS/MANAGERS DON'T AGREE WITH PART III REQUIREMENTS	5.4%
	FIRM COULDN'T AFFORD TO COMPLY WITH PART III	1.7%
	REQUIREMENTS CONFLICTED WITH INT'L COMPETITIVENESS	1.2%
	OTHER REASON FOR NON-COMPLIANCE WITH PART III	3.7%
B.6	PREFERRED PRIORITIES FOR DELIVERY OF PART III SERVICES**	
	(A) PROVIDING INFO./EDUCATION SERVICES	57.9%
	(B) CONDUCTING INSPECTIONS/SPOT CHECKS	6.3%
	(C) MEDIATING DISPUTES BETWEEN EMPLOYERS AND EMPLOYEES	29.7%
	(D) INVESTIGATING COMPLAINTS OR POTENTIAL VIOLATIONS	30.2%

* A seven-step scale was used for this indicator, where 1 = not satisfied, 4 = average, and 7 = very satisfied. Percentages shown were obtained by totalling the proportion of responses indicating 5, 6 and 7.

**A three-step scale was used for this indicator, where 1 = low priority, 2 = medium priority, and 3 = high priority. Percentages shown were obtained to indicate the proportion of responses indicating 3.

EMPLOYER DISPLAY B.4
EMPLOYEES HOURS OF WORK AND OVERTIME

(BASED ON A SAMPLE OF 617 EMPLOYERS)

(Percentages include multiple answers and need not total 100%)

C.1	ANY EMPLOYEES (EXCEPT TRUCK DRIVERS) HAD THE FOLLOWING WORKING HOURS IN 1996*	
	(A) EMPLOYEES WORKED MORE THAN 40 HOURS/WEEK	69.7%
	(B) EMPLOYEES WORKED MORE THAN 48 HOURS/WEEK	43.8%
	(C) EMPLOYEES WORKED MORE THAN 8 HOURS/DAY	73.8%

	(D) EMPLOYEES WORKED MORE THAN 7 CONSECUTIVE DAYS	20.7%
	(E) EMPLOYEES WORKED WITHOUT REGARDS TO SUNDAYS/HOLIDAYS	29.6%
C.4	PRACTICES WHEN USUAL WORK HOURS EXCEEDED 48 HOURS	
	EMPLOYEES GIVEN ADVANCE NOTICE OF SCHEDULED CHANGES	10.5%
	AT LEAST 70% OF EMPLOYEES AGREED TO WORK EXTRA	21.6%
	UNION (IF ANY) GAVE PRIOR CONSENT/HELD A VOTE	.9%
	PERMITS OBTAINED FROM HRDC LABOUR PROGRAM	.9%
	ONLY THOSE WHO WISHED, WORKED MORE THAN 48 HRS./WEEK	33.0%
	OTHER PRACTICES WHEN EMPLOYEES WORKED 48+ HRS/WEEK	5.1%
	NONE OF THE ABOVE	15.8%
	NO EMPLOYEES WORKED MORE THAN 48 HOURS	36.9%

* Could include 1% to 100% of employees.

EMPLOYER DISPLAY B.5
EMPLOYER REPORTS ON EMPLOYMENT STANDARDS AND COMPLIANCE

(BASED ON A SAMPLE OF 617 EMPLOYERS)

(Percentages include multiple answers and need not total 100%)

H.1	EMPLOYER'S REPORTS ON HOW THEIR PRACTICES COMPARE TO LABOUR STANDARDS	
(A)	NORMAL HOURS OF WORK	
	DON'T KNOW	19.4%
	LESS THAN PART III STANDARD	5.0%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	75.6%
(B)	OVERTIME PAY RATE	
	DON'T KNOW	20.9%
	LESS THAN PART III STANDARD	4.4%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	74.8%
(C)	MINIMUM WAGE	
	DON'T KNOW	11.1%
	LESS THAN PART III STANDARD	.0%

	MATCHES AND/OR EXCEEDS PART III STANDARDS	88.9%
(D)	EQUAL WAGES	
	DON'T KNOW	16.4%
	LESS THAN PART III STANDARD	1.1%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	82.4%
(E)	ANNUAL VACATIONS	
	DON'T KNOW	10.6%
	LESS THAN PART III STANDARD	1.2%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	88.2%
(F)	STATUTORY HOLIDAYS	
	DON'T KNOW	10.0%
	LESS THAN PART III STANDARD	1.4%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	88.7%
(G)	MATERNITY/PARENTAL LEAVE REASSIGNMENT	
	DON'T KNOW	26.3%
	LESS THAN PART III STANDARD	.3%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	73.4%
(H)	BEREAVEMENT LEAVE	
	DON'T KNOW	20.0%
	LESS THAN PART III STANDARD	2.1%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	77.9%
(I)	INDIVIDUAL TERMINATIONS	
	DON'T KNOW	22.9%
	LESS THAN PART III STANDARD	2.0%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	75.2%
(J)	GROUP TERMINATIONS	
	DON'T KNOW	61.0%
	LESS THAN PART III STANDARD	.9%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	38.1%
(K)	SEVERANCE PAY	
	DON'T KNOW	36.2%

	LESS THAN PART III STANDARD	3.9%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	59.9%
(L)	SICK LEAVE/WORK-RELATED ILLNESS	
	DON'T KNOW	24.6%
	LESS THAN PART III STANDARD	2.3%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	73.1%
(M)	TIMELY PAYMENT OF WAGES	
	DON'T KNOW	10.2%
	LESS THAN PART III STANDARD	.3%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	89.5%
(N)	POLICY ON SEXUAL HARASSMENT	
	DON'T KNOW	38.1%
	LESS THAN PART III STANDARD	2.9%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	59.0%

EMPLOYER DISPLAY B.6
EMPLOYER REPORTS ON NEED FOR MORE OR BETTER INFORMATION, BY PART III PROVISION

(BASED ON A SAMPLE OF 617 EMPLOYERS)
(Percentages include multiple answers and need not total 100%)

H.3	REPORTED NEED FOR MORE OR BETTER INFORMATION ON CODE PROVISIONS	
	(A) HOURS WORKED PER WEEK WHEN OVERTIME BEGINS	19.7%
	(B) OVERTIME PAY RATE	17.6%
	(C) MINIMUM WAGE	16.4%
	(D) EQUAL WAGES	16.2%
	(E) ANNUAL VACATIONS	18.0%
	(F) STATUTORY HOLIDAYS	18.0%
	(G) MATERNITY/PARENTAL LEAVE REASSIGNMENT	17.2%
	(H) BEREAVEMENT LEAVE	19.5%
	(I) INDIVIDUAL TERMINATIONS	23.5%
	(J) GROUP TERMINATIONS	17.7%
	(K) SEVERANCE PAY	27.6%
	(L) SICK LEAVE/WORK-RELATED ILLNESS	23.4%
	(M) TIMELY PAYMENT OF WAGES	12.2%
	(N) POLICY ON SEXUAL HARASSMENT	24.3%
	(O) NO NEED FOR ADDITIONAL INFORMATION	60.4%

EMPLOYER DISPLAY B.7
EMPLOYER PERCEPTIONS OF ADDITIONAL COSTS IMPOSED BY PART III

(BASED ON A SAMPLE OF 617 EMPLOYERS)
(Percentages include multiple answers and need not total 100%)

		ADMINISTRATIVE COSTS	WAGE COSTS
I.1/I.2	PROVISIONS IMPOSE ADDITIONAL COSTS		
	(A) HOURS WORKED PER WEEK WHEN OVERTIME BEGINS	10.4%	12.7%
	(B) OVERTIME PAY RATE	9.7%	15.1%
	(C) MINIMUM WAGE	2.1%	2.8%
	(D) EQUAL WAGES	3.3%	4.2%
	(E) ANNUAL VACATIONS	6.6%	9.2%
	(F) STATUTORY HOLIDAYS	13.4%	16.1%
	(G) MATERNITY/PARENTAL LEAVE REASSIGNMENT	5.2%	7.7%
	(H) BEREAVEMENT LEAVE	5.2%	11.6%
	(I) INDIVIDUAL TERMINATIONS	7.8%	8.9%
	(J) GROUP TERMINATIONS	3.2%	2.8%
	(K) SEVERANCE PAY	9.0%	27.4%
	(L) SICK LEAVE/WORK-RELATED ILLNESS	6.2%	13.8%
	(M) TIMELY PAYMENT OF WAGES	2.9%	1.4%
	(N) POLICY ON SEXUAL HARASSMENT	3.0%	1.6%
	(O) NO ADDITIONAL COSTS	65.0%	50.2%

EMPLOYER DISPLAY B.8
EMPLOYER PERCEPTIONS ON ADDITIONAL BENEFITS PROVIDED BY PART III

(BASED ON A SAMPLE OF 617 EMPLOYERS)
(Percentages include multiple answers and need not total 100%)

I.3	PROVISIONS IMPOSE ADDITIONAL COSTS	
	(A) HOURS WORKED PER WEEK WHEN OVERTIME BEGINS	8.9%
	(B) OVERTIME PAY RATE	9.8%
	(C) MINIMUM WAGE	8.0%

	(D) EQUAL WAGES	13.2%
	(E) ANNUAL VACATIONS	26.0%
	(F) STATUTORY HOLIDAYS	21.1%
	(G) MATERNITY/PARENTAL LEAVE REASSIGNMENT	9.3%
	(H) BEREAVEMENT LEAVE	14.7%
	(I) INDIVIDUAL TERMINATIONS	2.3%
	(J) GROUP TERMINATIONS	.6%
	(K) SEVERANCE PAY	4.5%
	(L) SICK LEAVE/WORK-RELATED ILLNESS	12.9%
	(M) TIMELY PAYMENT OF WAGES	11.9%
	(N) POLICY ON SEXUAL HARASSMENT	5.9%
	(O) NO BENEFITS	54.7%

EMPLOYER DISPLAY B.9
EMPLOYER REPORTS OF MAJOR OF COSTS AND BENEFITS

(BASED ON A SAMPLE OF 617 EMPLOYERS)
(Percentages include multiple answers and need not total 100%)

I.5	ANY MAJOR COSTS FOR THE FIRM FROM PART III*	
	(A) HIGHER ADMINISTRATIVE/PAPERWORK COSTS	9.8%
	(B) HIGHER LABOUR COSTS	24.6%
	(C) LOSS OF FLEXIBILITY IN WORK SCHEDULING	15.6%
	(D) DIFFICULTY ADJUSTING TO MARKET/BUSINESS DEMANDS	15.1%
	(E) DISRUPTION OF PRODUCTION	10.7%
	(F) REDUCED PRODUCTIVITY	12.2%
	(G) REDUCED INTERNATIONAL COMPETITIVENESS	10.4%
I.7	ANY MAJOR BENEFITS FOR THE FIRM FROM PART III**	
	(A) SIMPLER TO DEAL WITH ONLY ONE FEDERAL STANDARD	39.2%
	(B) LEVEL/COMPETITIVE PLAYING FIELD WITH OTHER FIRMS	26.0%
	(C) AVOIDANCE OF LEGAL COSTS	30.1%
	(D) HIGHER PRODUCTIVITY	17.4%
	(E) BETTER EMPLOYEE/LABOUR-MGT. RELATIONS	24.2%
	(F) ABSENTEEISM REDUCTION/EMPLOYEE FATIGUE	19.9%
	(G) BETTER WORKING CONDITIONS FOR EMPLOYEES	25.8%
	(H) HIGHER EMPLOYEE JOB SATISFACTION	26.0%

	(I) OTHER BENEFIT TO FIRM	8.6%
I.8 (A)	THE BALANCE OF COSTS AND BENEFITS FOR THE FIRM***	
	COSTS ARE GREATER	18.2%
	COSTS AND BENEFITS ARE BALANCED	19.7%
	BENEFITS ARE GREATER	15.6%
	DON'T KNOW	46.5%
(B)	THE BALANCE OF COSTS AND BENEFITS FOR EMPLOYEES***	
	COSTS ARE GREATER	6.5%
	COSTS AND BENEFITS ARE BALANCED	15.1%
	BENEFITS ARE GREATER	28.5%
	DON'T KNOW	49.8%

* Percentages shown indicate the proportion of respondents reporting MAJOR COST.

** Percentages shown indicate the proportion of respondents reporting MAJOR BENEFIT.

*** A 7-step scale was used for this indicator, where 1 = costs are greater, 4 = balanced, and 7 = benefits are greater. Percentages shown were obtained to indicate the proportion of responses indicating 1, 2 and 3 (costs are greater) vs. 5, 6 and 7 (benefits are greater).

EMPLOYER DISPLAY B.10
CHANGES TO THE LABOUR PROGRAM, OPTIONS FOR IMPROVEMENT AND INTERNAL DISPUTE RESOLUTION

(BASED ON A SAMPLE OF 617 EMPLOYERS)
(Percentages include multiple answers and need not total 100%)

K.1	SHOULD FIRMS WITH REPEATED VIOLATIONS PAY FOR ADM. COSTS	
	YES, BUT ONLY FIRMS WITH REPEATED COMPLAINTS/VIOLATIONS	38.8%
	YES, ALL FIRMS	5.2%
	NO	56.0%
K.2	OPTIONS OF INTEREST TO AID COMPLIANCE WITH PART III	
	LABOUR PROGRAM SEMINARS TO EXPLAIN PART III DETAILS	35.4%
	ESTABLISHING INDUSTRY MECHANISMS FOR PART III DISPUTES	7.5%
	MORE PART III INFO. FOR THE FIRM	32.1%
	MORE VISITS/HELP FROM LAOs	7.9%
	BETTER WRITTEN INFO. FROM LABOUR BRANCH	31.6%

	PART III INFO. ON THE INTERNET	22.3%
	TOLL-FREE NUMBER TO ACCESS PART III INFO.	40.9%
	DISTRIBUTION OF INFO. THROUGH ASSOCIATIONS	6.5%
	ALTERNATIVE DELIVERY	3.0%
	OTHER RESOURCES/CHANGES	1.3%
	NONE OF THE ABOVE	20.2%
K.3	EXPERIENCE WITH INTERNAL DISPUTE RESOLUTION IN PART III	
	NO EXPERIENCE WITH INTERNAL DISPUTE RESOLUTION	79.8%
	THROUGH A COLLECTIVE AGREEMENT	7.1%
	THROUGH JOINT MGT./WORKER OR COMPANY/UNION COMMITTEE	5.4%
	THROUGH REFERRAL TO SENIOR MGT.	10.3%
	THROUGH REFERRAL TO A CONSULTING FIRM	6.0%
	THROUGH OTHER APPROACHES	2.6%
K.4	INTEREST IN DEVELOPING INTERNAL DISPUTE MECHANISMS	
	NOT INTERESTED IN INTERNAL DISPUTE RESOLUTION	66.4%
	NEW MECHANISMS IN COLLECTIVE AGREEMENT	3.2%
	USE OF JOINT MGT.-WORKER OR COMPANY-UNION COMMITTEE	9.1%
	TRAINING IN DISPUTE RESOLUTION FOR MANAGERS	21.4%
	REFERRALS TO CONSULTANTS FOR ASSISTANCE	7.3%
	OTHER DISPUTE RESOLUTION MECHANISM	2.8%

C: TABLES OF UNION RESPONSES

UNION DISPLAY C.1
UNION REPORTS ON INFORMATION AND EXPERIENCES WITH LAOs AND THE LABOUR PROGRAM

(BASED ON A SAMPLE OF 73 UNION REPRESENTATIVES)
(Percentages include multiple answers and need not total 100%)

A.1	UNION'S EXPERIENCES WITH LAOs AND THE LABOUR PROGRAM	
	LAOs PROVIDED A SEMINAR	3.1%
	LAOs PROVIDED BROCHURES	15.6%
	LAOs MET WITH/PROVIDED INFO. TO	12.5%

	EMPLOYEES/UNION	
	REQUESTED INFO. FROM LABOUR PROGRAM/LAOs RE PART III	23.4%
	LAO IDENTIFIED NON-COMPLIANCE WHEN REVIEWING RECORDS	9.4%
	LAO VISITED FIRM TO INVESTIGATE EMPLOYEE COMPLAINT	7.8%
	LAO MEDIATED/NEGOTIATED SETTLEMENT OF EMPLOYEE COMPLAINT	4.7%
	LAO FOUND FIRM WAS IN THE WRONG	4.7%
	LAO WROTE ORDER TO PAY EMPLOYEE WAGES/SEVERANCE PAY	.0%
	HAD NO CONTACTS WITH LABOUR BRANCH OR LAOs	46.9%
	DON'T KNOW	28.1%
A.3	HOW INFORMATION ABOUT PART III IS PROVIDED TO EMPLOYEES	
	PART III REQUIREMENTS POSTED	16.2%
	LABOUR PROGRAM BROCHURES ARE POSTED/DISTRIBUTED	16.2%
	OTHER WRITTEN INFO. IS DISTRIBUTED TO EMPLOYEES	.0%
	MANAGERS/OWNER EXPLAIN PART III AS NEEDED	7.4%
	LAOs EXPLAIN PART III TO EMPLOYEES WHEN VISITING	2.9%
	UNION PROVIDES WRITTEN PART III INFORMATION	23.5%
	UNION PROVIDES VERBAL INFORMATION TO MEMBERS	44.1%
	OTHER	1.5%
	NONE OF THE ABOVE	33.8%

UNION DISPLAY C.2

UNION REPORTS ON SATISFACTION WITH ASPECTS OF LAO AND LABOUR PROGRAM CONTACTS, COMPLIANCE AND PRIORITIES

(BASED ON A SAMPLE OF 73 UNION REPRESENTATIVES)
(Percentages include multiple answers and need not total 100%)

A.2	UNION SATISFACTION WITH LAO'S AND ASPECTS OF LABOUR PROGRAM*	% SATISFIED
	(A) CLARITY/HELPFULNESS OF INFORMATION	71.4%
	(B) FAIRNESS OF THE LAO(S)	76.5%
	(C) TIME TAKEN TO SOLVE PROBLEM(S)	64.3%
	(D) AMOUNT OF EXTRA PAPERWORK REQUIRED	44.4%
	(E) OUTCOME OF INVESTIGATION(S)	72.7%

	(F) OUTCOME OF MEDIATION(S)	40.0%
	(G) PAYMENT ORDERS GIVEN	100.0%
	(H) CONSISTENCY BETWEEN LAOs	72.7%
A.8	PREFERRED PRIORITIES FOR DELIVERY OF PART III SERVICES**	
	(A) PROVIDING INFO./EDUCATION SERVICES	50.7%
	(B) CONDUCTING INSPECTIONS/SPOT CHECKS	46.8%
	(C) MEDIATING DISPUTES BETWEEN EMPLOYERS AND EMPLOYEES	39.3%
	(D) INVESTIGATING COMPLAINTS OR POTENTIAL VIOLATIONS	64.5%

* A seven-step scale was used for this indicator, where 1= not satisfied, 4 = average, and 7 = very satisfied. Percentages shown were obtained by totaling the proportion of responses indicating 5, 6 and 7.

** A three-step scale was used for this indicator, where 1= low priority, 2 = medium priority, and 3 = high priority. Percentages shown were obtained by totaling the proportion of responses indicating 3.

UNION DISPLAY C.3

UNION REPORTS ON CHANGES TO THE LABOUR PROGRAM, OPTIONS FOR IMPROVEMENT AND INTERNAL DISPUTE RESOLUTION

(BASED ON A SAMPLE OF 73 UNION REPRESENTATIVES)
(Percentages include multiple answers and need not total 100%)

A.6	HOW TO CONVEY PART III INFO TO EMPLOYEES	
	EMPLOYERS REQUIRED TO DISTRIBUTE MORE PART III INFO.	70.8%
	BROCHURES AVAILABLE AT ALL WORKPLACES AND HRCCs	41.7%
	BETTER WRITTEN INFO. SHOULD BE PROVIDED TO EMPLOYEES	40.3%
	INFORMATION SHOULD BE AVAILABLE ON INTERNET	25.0%
	TOLL-FREE INQUIRY LINE	40.3%
	UNION LOCALS SHOULD RECEIVE INFO. FROM THE LABOUR PROGRAM	59.7%
	UNIONS SHOULD PROVIDE INFO. TO MEMBERS	37.5%
	LAOs SHOULD MEET PERIODICALLY WITH UNIONS/EMPLOYEES	31.9%
	EMPLOYERS SHOULD PROVIDE MORE INFO. ON THEIR EMPLOY. PRACT.	33.3%
	OTHER	1.4%

A.7	OPTIONS OF INTEREST TO AID COMPLIANCE WITH PART III	
	LABOUR PROGRAM SEMINARS TO EXPLAIN PART III DETAILS	55.6%
	MORE PART III INFO. FOR THE UNION	44.4%
	ESTABLISHING INDUSTRY MECHANISMS FOR PART III DISPUTES	19.4%
	MORE VISITS/HELP FROM LAOs	20.8%
	BETTER WRITTEN INFO. FOR UNION FROM LABOUR BRANCH	51.4%
	BETTER WRITTEN INFO. FOR EMPLOYEES FROM LABOUR BRANCH	38.9%
	PART III INFO. ON THE INTERNET	20.8%
	TOLL-FREE NUMBER TO ACCESS PART III INFO.	40.3%
	OTHER RESOURCES/CHANGES	4.2%
	NONE OF THE ABOVE	1.4%
	DOES NOT KNOW	9.7%
A.9	EXPERIENCE WITH INTERNAL DISPUTE RESOLUTION IN PART III	
	NO EXPERIENCE WITH INTERNAL DISPUTE RESOLUTION	59.7%
	THROUGH A COLLECTIVE AGREEMENT	40.3%
	THROUGH JOINT MGT./WORKER OR COMPANY/UNION COMMITTEE	11.9%
	THROUGH REFERRAL TO CONSULTANTS	6.0%
	THROUGH OTHER APPROACHES	1.5%
A.10	INTEREST IN DEVELOPING INTERNAL DISPUTE MECHANISMS	
	NOT INTERESTED IN INTERNAL DISPUTE RESOLUTION	33.9%
	NEW MECHANISMS IN COLLECTIVE AGREEMENT	35.5%
	USE OF JOINT MGT.-WORKER OR COMPANY-UNION COMMITTEE	30.6%
	REFERRALS TO CONSULTANTS FOR ASSISTANCE	12.9%
	TRAINING IN DISPUTE RESOLUTION FOR MANAGERS	29.0%
	OTHER DISPUTE RESOLUTION MECHANISM	.0%

UNION DISPLAY C.4
UNION REPORTS ON GENERAL EMPLOYMENT STANDARDS AND COMPLIANCE

(BASED ON A SAMPLE OF 73 UNION REPRESENTATIVES)
(Percentages include multiple answers and need not total 100%)

G.1	UNION'S REPORTS ON HOW FIRM'S PRACTICES COMPARE TO LABOUR STANDARDS	
(A)	NORMAL HOURS OF WORK	
	DON'T KNOW	23.3%
	LESS THAN PART III STANDARD	5.5%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	71.2%
(B)	OVERTIME PAY RATE	
	DON'T KNOW	20.5%
	LESS THAN PART III STANDARD	2.7%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	76.7%
(C)	MINIMUM WAGE	
	DON'T KNOW	28.8%
	LESS THAN PART III STANDARD	.0%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	71.2%
(D)	EQUAL WAGES	
	DON'T KNOW	28.8%
	LESS THAN PART III STANDARD	2.7%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	68.5%
(E)	ANNUAL VACATIONS	
	DON'T KNOW	15.1%
	LESS THAN PART III STANDARD	.0%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	84.9%
(F)	STATUTORY HOLIDAYS	
	DON'T KNOW	12.3%
	LESS THAN PART III STANDARD	.0%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	87.7%
(G)	MATERNITY/PARENTAL LEAVE REASSIGNMENT	
	DON'T KNOW	43.8%
	LESS THAN PART III STANDARD	1.4%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	54.8%
(H)	BEREAVEMENT LEAVE	
	DON'T KNOW	19.2%

	LESS THAN PART III STANDARD	2.7%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	78.1%
(I)	INDIVIDUAL TERMINATIONS	
	DON'T KNOW	42.5%
	LESS THAN PART III STANDARD	6.8%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	50.7%
(J)	GROUP TERMINATIONS	
	DON'T KNOW	56.2%
	LESS THAN PART III STANDARD	5.5%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	38.4%
(K)	SEVERANCE PAY	
	DON'T KNOW	45.2%
	LESS THAN PART III STANDARD	9.6%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	45.2%
(L)	SICK LEAVE/WORK-RELATED ILLNESS	
	DON'T KNOW	34.2%
	LESS THAN PART III STANDARD	4.1%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	61.6%
(M)	TIMELY PAYMENT OF WAGES	
	DON'T KNOW	16.4%
	LESS THAN PART III STANDARD	5.5%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	78.1%
(N)	PROTECTION FROM SEXUAL HARASSMENT	
	DON'T KNOW	46.6%
	LESS THAN PART III STANDARD	2.7%
	MATCHES AND/OR EXCEEDS PART III STANDARDS	50.7%

UNION DISPLAY C.5

UNION REPORTS ON NEEDS FOR MORE OR BETTER INFORMATION

(BASED ON A SAMPLE OF 73 UNION REPRESENTATIVES)
(Percentages include multiple answers and need not total 100%)

G.3	REPORTED NEEDS FOR MORE OR BETTER INFORMATION	

	(A) NORMAL HOURS OF WORK	12.3%
	(B) OVERTIME PAY RATE	13.7%
	(C) MINIMUM WAGE	4.1%
	(D) EQUAL WAGES	9.6%
	(E) ANNUAL VACATIONS	6.8%
	(F) STATUTORY HOLIDAYS	6.8%
	(G) MATERNITY/PARENTAL LEAVE REASSIGNMENT	15.1%
	(H) BEREAVEMENT LEAVE	6.8%
	(I) INDIVIDUAL TERMINATIONS	21.9%
	(J) GROUP TERMINATIONS	19.2%
	(K) SEVERANCE PAY	20.5%
	(L) SICK LEAVE/WORK-RELATED ILLNESS	13.7%
	(M) TIMELY PAYMENT OF WAGES	8.2%
	(N) PROTECTION FROM SEXUAL HARASSMENT	11.0%
	(O) NO NEED FOR ADDITIONAL INFORMATION	37.0%
	(P) DON'T KNOW	13.7%

UNION DISPLAY C.6

UNION PERCEPTIONS OF ADDITIONAL WAGE COSTS IMPOSED BY PART III

(BASED ON A SAMPLE OF 73 UNION REPRESENTATIVES)
(Percentages include multiple answers and need not total 100%)

H.1	PART III PROVISIONS IMPOSE ADDITIONAL ADMINISTRATIVE COSTS	
	(A) NORMAL HOURS OF WORK	8.2%
	(B) OVERTIME PAY RATE	11.0%
	(C) MINIMUM WAGE	4.1%
	(D) EQUAL WAGES	2.7%
	(E) ANNUAL VACATIONS	5.5%
	(F) STATUTORY HOLIDAYS	9.6%
	(G) MATERNITY/PARENTAL LEAVE REASSIGNMENT	2.7%
	(H) BEREAVEMENT LEAVE	4.1%
	(I) INDIVIDUAL TERMINATIONS	.0%
	(J) GROUP TERMINATIONS	.0%
	(K) SEVERANCE PAY	4.1%
	(L) SICK LEAVE/WORK-RELATED ILLNESS	5.5%
	(M) TIMELY PAYMENT OF WAGES	.0%
	(N) PROTECTION FROM SEXUAL HARASSMENT	1.4%
	(O) NO ADDITIONAL WAGE COSTS	28.8%
	(P) DON'T KNOW	23.3%

UNION DISPLAY C.7

UNION PERCEPTIONS OF ADDITIONAL BENEFITS PROVIDED BY PART III

(BASED ON A SAMPLE OF 73 UNION REPRESENTATIVES)

(Percentages include multiple answers and need not total 100%)

H.2	PART III PROVIDES ADDITIONAL BENEFITS	
	(A) NORMAL HOURS OF WORK	19.2%
	(B) OVERTIME PAY RATE	16.4%
	(C) MINIMUM WAGE	5.5%
	(D) EQUAL WAGES	11.0%
	(E) ANNUAL VACATIONS	17.8%
	(F) STATUTORY HOLIDAYS	16.4%
	(G) MATERNITY/PARENTAL LEAVE REASSIGNMENT	9.6%
	(H) BEREAVEMENT LEAVE	9.6%
	(I) INDIVIDUAL TERMINATIONS	2.7%
	(J) GROUP TERMINATIONS	4.1%
	(K) SEVERANCE PAY	5.5%
	(L) SICK LEAVE/WORK-RELATED ILLNESS	8.2%
	(M) TIMELY PAYMENT OF WAGES	12.3%
	(N) PROTECTION FROM SEXUAL HARASSMENT	5.5%
	(O) NO ADDITIONAL BENEFIT	15.1%
	(P) DON'T KNOW	45.2%

UNION DISPLAY C.8

UNION PERCEPTIONS OF TYPES OF COSTS AND BENEFITS

(BASED ON A SAMPLE OF 73 UNION REPRESENTATIVES)
(Percentages include multiple answers and need not total 100%)

H.3	ANY COSTS FOR THE FIRM FROM PART III*	
	(A) HIGHER ADMINISTRATIVE/PAPERWORK COSTS	11.8%
	(B) HIGHER LABOUR COSTS	32.4%
	(C) LOSS OF FLEXIBILITY IN WORK SCHEDULING	21.6%
	(D) DIFFICULTY ADJUSTING TO MARKET/BUSINESS DEMANDS	8.6%
	(E) DISRUPTION OF PRODUCTION	10.0%
	(F) REDUCED PRODUCTIVITY	12.1%
	(G) REDUCED INTERNATIONAL COMPETITIVENESS	11.1%
	(H) OTHER COSTS DUE TO PART III	33.3%
H.4	ANY BENEFITS FOR THE FIRM FROM PART III**	
	(A) SIMPLER TO DEAL WITH ONLY ONE FEDERAL STANDARD	43.8%
	(B) LEVEL/COMPETITIVE PLAYING FIELD WITH OTHER FIRMS	42.4%
	(C) AVOIDANCE OF LEGAL COSTS	62.9%

	(D) HIGHER PRODUCTIVITY	37.5%
	(E) OTHER BENEFITS TO FIRM	25.0%
	(F) BETTER EMPLOYEE/LABOUR-MANAGEMENT RELATIONS	50.0%
	(G) ABSENTEEISM REDUCTION/EMPLOYEE FATIGUE	39.5%
	(H) BETTER WORKING CONDITIONS FOR EMPLOYEES	54.3%
	(I) HIGHER EMPLOYEE JOB SATISFACTION	48.9%
	(J) OTHER BENEFIT TO FIRM	.0%
H.5 (A	THE BALANCE OF COSTS AND BENEFITS FOR THE FIRM***	
	COSTS ARE GREATER	22.2%
	COSTS AND BENEFITS ARE BALANCED	12.7%
	BENEFITS ARE GREATER	19.0%
	DON'T KNOW	46.0%
H.5 (B)	THE BALANCE OF COSTS AND BENEFITS FOR EMPLOYEES***	
	COSTS ARE GREATER	6.6%
	COSTS AND BENEFITS ARE BALANCED	13.1%
	BENEFITS ARE GREATER	42.6%
	DON'T KNOW	37.7%

* Percentages shown indicate the proportion of respondents reporting MAJOR COST.

** Percentages shown indicate the proportion of respondents reporting MAJOR BENEFIT.

*** A 7-step scale was used for this indicator, where 1 = costs are greater, 4 = balanced, and 7 = benefits are greater. Percentages shown were obtained to indicate the proportion of responses indicating 1, 2 and 3 (costs are greater) vs. 5, 6 and 7 (benefits are greater).

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Appendix D: Notes on Methodology, Data and Indicators

D.1 The Surveys

Overview: Three surveys were conducted as part of this evaluation. A major survey of Federally-regulated employers collected information from a national sample of employers on such topics as: employment practices, satisfaction with the Canada Labour Code and the Labour Program, and perceptions of costs and benefits of Federal labour standards. A particular unique feature of the employer survey was an attempt (not previously attempted, to the evaluator's knowledge) to measure employer compliance or non-compliance with the Code in employment practices. This survey is a centrepiece of this evaluation.

A parallel, but smaller survey of unions was conducted and examined the same issues as the employer survey. Fewer unions were sampled than employers, because of the relatively small number of unionized employers in the Federal Sector. (Although it is noted that the largest federal employers, and thus most employees in Federally-regulated industries are employed in a few large private and crown corporations.) This survey was also exploratory, in that many of the unions surveyed had limited experience with Part III, and also in many cases only partial knowledge of how their specific employer's practices related to Part III.[89] The survey was highly innovative for most unions surveyed, as many representatives indicated that they had never looked at employment practices in their firms from the Part III perspective.

Third, a survey of Labour Affairs Officers (LAOs) examined issues of labour standards from a delivery perspective. Topics examined included program delivery, operations, job satisfaction, awareness of employer, union and employee knowledge of the Code, and ways to improve compliance with the Labour Code. Survey forms for all three surveys are reproduced in Appendix B.

Sampling: The sample of employers and unions was initially drawn from the Labour Operations Information System (LOIS) which contains information on the compliance history (complaints, violations, etc.) of all Federally-regulated businesses known to the Labour Program. The main sample was created by sampling from LOIS employers (firms known to Labour Program), with a supplementary sample drawn from Statistics Canada databases (firms not known to Labour Program). The employer sample was stratified using compliance and related data from LOIS:

> LOIS Employers: Over 700 employers were sampled from LOIS in the following way: LOIS was used as a basis for creating a sampling pool and conducting a screening survey of federal employers included in LOIS. Altogether, some 1,800 firms were selected for screening.
>
> Next a screening survey was undertaken by a bilingual team of interviewers, to determine if the firm was still in operation, was Federally-regulated, and contact/employer information (up-to-date address, FAX, contact names, etc.). This generally involved up to 5 phone call attempts, and directory assistance searchers where initial numbers were not found. An employer was deemed no longer in operation if no contact could be made and no evidence of the employers' existence could be found

from directory assistance or Internet sources. Of these, about 72 percent were located and determined to still be in business, and Federally-regulated.[90] Some operational lessons were drawn (see the end of this appendix **Data Base Lessons**, for discussion).

Employers still in operation were divided into two key strata on the basis of LOIS compliance data -- employers with no complaints and employers with complaints in a five-year reference period, 350 employers were randomly sampled from each group for the employer survey.

Non-LOIS Firms: A sub-sample of firms not known to LOIS was drawn from Statistics Canada's Business Registry to cover Federally-regulated companies which were unknown to the Labour Program at the time of the survey. It was generally assumed that these would be mostly new firms, and that they would represent mainly the new firms that should have gone into LOIS, to replace the approximately 28 percent of LOIS firms which had ceased doing business.

The listing for this sample was created in the following way: the Statistics Canada Business registry was used to select a national sample of employers in SIC groups known to be partially or fully Federally-regulated. Employers already in LOIS were deleted by computer and manual matches. Phone numbers were obtained by a match to business computer data bases, and directory assistance where needed. Then a screening survey was undertaken by a bilingual team of interviewers, to determine if the firm was still in operation, was Federally-regulated, and contact/employer information (up-to-date address, FAX, contact names, etc.). This generally involved up to 5 phone call attempts, and directory assistance searchers where initial numbers were not found. An employer was deemed no longer in operation if no contact could be made and no evidence of the employers' existence could be found from directory assistance or internet sources. It should be noted that classification of employers was by the researchers, following a question guide developed with the Labour Program, but that classifications were not verified after by the Labour Program. Some classification errors may therefore have occurred.[91]

A special challenge for this part of the survey was determining whether in fact the employer was Federally-regulated. Some sectors were determined to be Federally-regulated 100 percent,[92] so that determining coverage was straightforward. Some employers, however, most notably in the trucking sector, could only be determined to be Federally-regulated by asking a series of questions on topics such as: ever ship interprovincially or internationally; readiness to ship; maintenance of permits; etc. Generally, this step was complicated by the fact that many employers contacted had no idea at all whether they were Federally-regulated or not.

From the resulting screening list of Federally-regulated employers outside of LOIS, a sample of 300 was drawn to include in the employer survey. This sample was randomly drawn from the various sectors and Provinces and Territories.

Unions: The sample of unions was selected from the unionized employers included in the LOIS sample, where some information was available at the start of the survey, regarding unions active in each firm, and names and contact persons. This information was developed for the survey in the following way: union contacts were telephoned where possible, and where the information was not available or up to date (as in the majority of cases in the LOIS files) direct contacts were made with union locals, or national offices, or with the employer. In this way a complete mailing list was prepared for 150 union representatives who were then mailed the survey.

Labour Affairs Officers: The sample for the Survey of Labour Affairs Officers was selected from HRDC staff lists, which were then developed in the following way: a list was drafted from the Labour Program data base, and then reviewed with the Technical Advisors for Part III in each region, who added and removed LAOs new to or no longer involved in Part III. Subsequently, addresses and lists had to be further updated, as many offices had moved, and most contact information had to be updated. In the final analysis, as sample of 105 LAOs working on Part III of the Canada Labour Code was identified and contacted for the survey.

Survey Implementation: In the final analysis, survey response rates were good, considering the very detailed questions, and contemporary survey research standards: response rates were 63 percent for employers, 52 percent for union representatives, and 70 percent for LAOs.

These responses were challenging to obtain, because of the length of the questionnaires (many issues covered, and particularly the detailed employment practices questions), sensitivity of employers and others to the survey etc. This had been anticipated in the survey planning, where time had been allowed for a number of survey follow-ups (up to three mailings, phoning and FAXes) , but certain additional factors also impacted on the completion of the survey.

For many employers, the survey was sensitive in that representatives indicated concerns about confidentiality, about whether they "knew enough" about the code to complete the survey and so on. For union representatives, a key obstacle was locating these persons. Generally, the LOIS data base provided only a few pointers to current representatives involved in each firm, and subsequently these persons were difficult to locate.

Generally, as well, union personnel often expressed lack of knowledge about Part III, which was an additional obstacle to participation. This was usually overcome when survey personnel explained the importance of the "union point of view" being included in the survey along with the "employer perspective". Certain obstacles were also found with LAOs. Like union personnel, they were difficult to contact, and (in spite of communications efforts by the evaluators and Labour Program) many expressed concerns about workload not allowing time to complete a survey, confidentiality, and the purpose of the survey.

Statistical Analysis: All employer data examined in the report are weighted to be representative of the overall population of Federally-regulated enterprises under Part III. This was done by creating statistical weights to offset the initial sampling (compliance strata), and to offset survey non-response by industrial group province and size.[93] Thus, as a rule all statistical displays in the main report are oriented to the illustration of the national population of Part III employers in the Federally-regulated sector. These analyses provide a good view of the Federally-regulated sector overall. ***However, the reader is cautioned that in this view, all firms are treated equally.***

Obviously, some considerations require separating different types of firms -- for example, separating smaller truckers from large railways, banks, etc. Thus data are weighted to represent the national population of resulted businesses. For example, if the survey included 200 truckers and population (in LOIS) included 5,000, the weight applied would be 5,000/200, so that in comparison to employers in other sectors, truckers would be "weighted" in the results exactly in terms of their significance in the LOIS population.

Overall, statements about the population have more potential for generalization with weighting. To illustrate, consider a statistic such as that in Display 18, where 49.8 percent of employers indicated that they "did not know" what the balance was between cost and benefits of labour standards for employees. With weighted data, the researcher can infer numbers more readily -- that of the population of some 9,000 businesses, perhaps 4,500 would give this answer. This approach has certain advantages over an "unweighted" data approach to analyzing surveys, in which sampling and response rate variations may make the responding population quite unlike the population sampled.

Exceptions noted are all in appendices and are typically statistical analyses involving correlation tests, regression or discriminant analyses, which used unweighted data. Sample size for all employer correlations and analyses is N = 618. Union and LAO survey data are unweighted throughout the report.

Generally, the distribution of employers by sector was as follows for weighted and unweighted data.

Sector	Weighted % Distribution LOIS Firms	Unweighted % Distribution LOIS Firms
Trucking	59.2	41.7
Air Transport	13.2	15.2
Other Transportation	2.2	4.9
Communications	9.7	20.4
Grain Mills and Elevators	6.1	5.3
First Nations	7.2	6.0
Other Industries	2.3	6.5

Statistical analysis was conducted using *Statistical Package for the Social Sciences*, Windows Version 6.1. Analyses include mostly crosstabulations, presentations of means, correlations, and (in a few specific issue areas) regression, discriminant analysis and factor analysis.

D.2 Employer Compliance Indicators

A Survey Indicator: For the purposes of data analysis for the employer survey, an overall *indicator of compliance* was created from the survey to estimate the broad level of compliance of individual firms in the survey sample with Part III. Given the difficulty of measuring compliance on specific Code items, it was expected that an overall indicator would provide a more reliable indicator for correlation, regression analyses, etc.

This indicator was created using 13 different items in the questionnaire (see Display D.1 below). This indicator is of administrative significance, since it shows the overall pattern of compliance with the broader features of Part III, but it should be noted that the indicator does not represent a unidimensional empirical indicator of compliance.[94]

Display D.1
List of Compliance Items for the Overall Compliance Indicator Derived from the Employer Survey

Items	Questions
Long hours of work	C.1/C.4
Overtime after 40 hours	C.1/C.3
Overtime after 8 hours	C.1/C.3
Vacation pay	D.1
Statutory holidays	D.3/D.2
Individual terminations	E.2
Severance pay	E.4
Maternity leaves	G.1
Payroll	G.3

Sickness leaves	G.4
Bereavement leave	G.4
Sexual Harassment Policy	G.4
Workers' Compensation coverage	G.4

Scoring the Survey Indicator: For each item listed above, a value of "1", "0", or "-1" was attributed to each firm. The value "-1" represented a response inconsistent with the Labour Code (non-compliance); the value "0" was assigned to responses which did not indicate clearly whether the firm was in compliance or not (particularly where firms provided various "other category" responses to the specific survey questions) or when a specific Code item did not apply to the firm (e.g. maternity leaves, if no female employees). In contrast, a value of "+1" indicated that the firm was in compliance with the Code for this specific item.

Each individual item of compliance was given an equal weight. The overall compliance indicator was computed by totaling the value for all of these Code items, providing a range of possible values varying between "13" and "-13", where "0" would indicate various combinations of cases on the 13 Code provisions.[95] Generally, a total score of "0" would indicate the firm had a number of non-complying items equivalent to the number of complying items. Display D.2 (next page) shows the distribution of firms (unweighted) on the overall score for the compliance indicator.

The "0" for the overall compliance indicator means that the employer is "neutral" on the total indicator. In theory this could mean that the employer's compliance could not be certainly determined for any item. This only occurred for a few employers. More typically, it means that the number of compliant items contributing to the compliance indicator is equaled by the number of non-compliant items -- that is, for example, the employer was compliant on 6 items, non-compliant on 6, and unascertained on one = a score of "0". This broad indicator of compliance is a "proxy" of the overall approach of the firm in relation to labour standards.

LOIS Indicators of Compliance: Two indicators of compliance were derived from the LOIS data base for the survey analysis. These provided an assessment of complaints (primarily important for purposes of costs), and an assessment of violations. Specifics were:

- Rate of complaints: to allow standardization across employers of different sizes, this was computed as the rate of complaints per 1,000 employees, where number of employees was estimated from the survey, and the number of complaints was the total estimated by Labour Program from LOIS for the employer over a five-year period.
- Rate of violations: to allow standardization across employers of different sizes, this was computed as the rate of violations per 1,000 employees, where number of employees was estimated

from the survey, and the number of violations was the total estimated by Labour Program from LOIS, for the employer over a five-year period.

In various statistical analyses, particularly cross-tabulations, the three indicators of compliance were usually divided into three sub-groups, approximately equal in size in the weighted data population, to allow for easier comparison of sub-groups (see below).

Display D.2
Distribution of Employers on the Overall Indicator of Compliance
(unweighted data*)

	VALUE	FREQUENCY	PERCENT	CUMULATIVE PERCENT
HIGH COMPLIANCE	13	7	1.1	1.2
	12	5	.8	2.0
	11	5	.8	2.8
	10	8	1.3	4.2
	9	28	4.5	8.8
	8	22	3.6	12.5
	7	31	5.0	17.7
	6	45	7.3	25.2
	5	50	8.1	33.6
	4	45	7.3	41.1
	3	60	9.7	51.1
	2	45	7.3	58.6
	1	53	8.6	67.4
NEUTRAL/NOT KNOWN	0	53	8.6	76.3
	-1	55	8.9	85.5
	-2	26	4.2	89.8
	-3	24	3.9	93.8
	-4	19	3.1	97.0
	-5	7	1.1	98.2
	-6	4	.6	98.8
	-7	4	.6	99.5
LOW COMPLIANCE	-8	3	.5	100.0
		618	100.0	100.0

* Based on 599 cases with complete data. 19 cases with more than 3 missing responses were excluded from the compliance indicator.

Relation Between Compliance Indicators: A key question posed at the start of the study was: *"What is the relationship between the LOIS compliance data (administrative compliance) and actual employment practices of employers?"* A related question was *"What is the compliance level or behaviour of employers unknown to LOIS -- firms* *which have never had a complaint or otherwise been brought to the attention of the Labour Program?"* As is shown below, answering these questions provides perspective on the indicators and also some potentially useful insights on the operations of the Labour Program.

Correlations Between Indicators: Not surprisingly, an examination of simple correlations[96] revealed a strong relationship between the two LOIS indicators (complaints and violations) -- a correlation of .61 (Pearson's r). This strong correlation was to be expected, since violations almost by definition can only be created if a complaint is filed. The correlation is a product of administrative practices. As can be seen in Displays D.3 and D.4, survey compliance varied for different LOIS compliance groupings, but not in a continuous manner.

In the tables using the survey indicator, firms were divided into three roughly equal compliance groups. They were:

- high compliance (scores of 5 to 13); N = 201 cases;
- medium compliance (scores of 1 to 4); N = 203 cases;
- low compliance (scores of -8, the lowest score to 0); N = 195 cases.

The rates for LOIS data were calibrated as follows:

- rate of complaints was computed as a ratio of the 6-year total of complaints to the number of employees, calibrated to a rate of per 1,000 employees. The same procedure was applied to rate of violations.
- the dividing point between low and high complaints was 140 violations over 6 years per 1,000 employees. Among LOIS firms with complete data in crosstabs, 204 had no complaints, 158 had a low rate of complaints, and 79 had a high rate of complaints.

The dividing point between low and high violations was 200 violations over 6 years per 1,000 employees. Among LOIS firms with complete data in crosstabs, 271 had no recorded violations, 96 had a low rate of violations, and 65 had a high rate of violations.

Those highest in survey compliance were less likely to have a high rate of LOIS complaints (22.8%)(Display D.3), and those lowest in survey compliance were most likely to have a high rate of complaints (28%), However firms which were low in survey compliance were also very likely to have no recorded complaints (54.7% of low survey-compliance employers), pointing towards a high level of unrecorded employer violations (employers who are non-compliant, but no complaints are files).

Display D.3
Employers by Survey Reports on Compliance and

LOIS Reports of Complaints
(N = 618 Employers)

		LOIS PART III COMPLAINTS	
	NO RECORDED COMPLAINTS	LOW RATE OF COMPLAINTS	HIGH RATE OF COMPLAINTS
SURVEY COMPLIANCE			
HIGH COMPLIANCE	33.0%	44.2%	22.8%
MEDIUM COMPLIANCE	50.1%	30.7%	19.2%
LOW COMPLIANCE	54.7%	17.3%	28.0%
Pearson r = ns, Chi-square significant at < .01.			

Violations: Similarly, the group showing no violations in LOIS was found to be widely distributed in terms of actual employer reports. Among those with violations, a low rate of violations was correlated with high survey compliance: those with high survey compliance (31.9 percent) were two and one half times as likely to have a low LOIS violations rate as were those identified as low in survey compliance (12.8 percent). Similarly, those low in survey compliance (29 percent) were more than three times as likely to have a high LOIS violations rate as were those identified as high in survey compliance (8.3 percent). Variations in the crosstabulation were significant (Chi-square significant at P<.01[97], but not a linear relationship, which is reflected an overall correlation of only r = .14 (Pearson's)).

Display D.4
Employers by Survey Reports on Compliance and LOIS Reports of Violations
(N = 618 Employers)

	LOIS PART III VIOLATIONS		
	NO RECORDED VIOLATIONS	LOW RATE OF VIOLATIONS	HIGH RATE OF VIOLATIONS
SURVEY COMPLIANCE			
HIGH COMPLIANCE	59.8%	31.9%	8.3%
MEDIUM COMPLIANCE	62.1%	17.1%	20.8%
LOW COMPLIANCE	58.1%	12.8%	29.0%
Pearson r = .14 significant at P , .01; Chi-square significant at < .01.			

A Caveat: Assessment of these data must consider the fact that measures are taken at different time periods -- thus both measures could be accurate. If this were true, certain implications would still result. Because the LOIS violations data covers the past 5 years, it would be reasonable to expect that the program, if equipped to obtain compliance, would result in a higher level of compliance among those who were previous violators. The data suggest that this is not the case, and that it is particularly likely that those with a high historic rate of violations will still be in non-compliance.

This points to two possible implications: (1) partial enforcement: the fact that, as is suggested elsewhere in the evaluation results, LAOs are too hard pressed dealing with each individual complaint. For this reason, LAOs do not conduct complete compliance audits on non-compliant employers.[98] As a result, a given complaint may be dealt with, but the fact that the employer is non-compliant in other areas is never examined in the process, so that other violations may "sit there" until a new complaint comes in. This type of result points to the dangers of a primarily "complaint-driven" system; (2) need for enforcement tools: if the given employer is a persistent non-complier, betting on the lack of Labour resources to shield him/her from enforcement, then stronger penalties or cost-recovery could be indicated as appropriate policy directions.

D.3 Some LOIS Data and Related Analyses

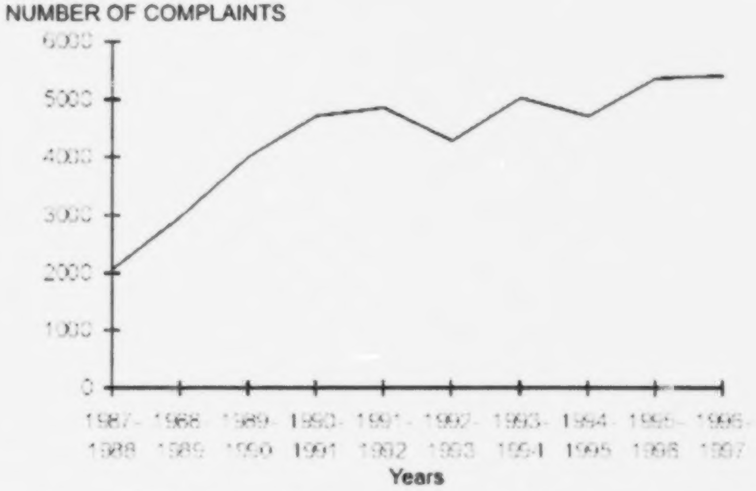
D.3.1 LOIS Workload Issues

The following sections present additional analyses of LOIS and survey compliance data. The analysis is based on the summary compliance data provided by Human Resources Development Canada[99] to SPR Associates Inc. on Federally-regulated employers. These data were used for sampling purposes in the Survey of Employers and were linked to the survey data base to examine broader issues of compliance and the administration of the Program (Section D.3.2).

Workload: The administrative data for the Labour Program indicate a significant increase in the number of complaints investigated by Labour Affairs Officers over the last several years. As can be seen in Display D.5 the number of complaints received by the Labour Program has increased more than two fold over the past 10 years and a notable increase occurred as well, over the past two fiscal years. It was indicated by Labour Program staff that an increase in the number of complaints was not unusual as a result of economic downturns, but clearly there is a longer-term trend towards more Part III complaints, even in the post-recession period of the mid-1990's.

This increased workload must also be seen in the context of the recent re-organization of the program and the rationalization efforts that have been made in the integration of Labour Canada with Human Resources Development Canada. The heavy workload was a recurrent concern in survey responses from LAOs and administrative data largely support the fact that the administration of the program has faced a significant challenge in trying to cope with the investigation component of its activities. As noted in the main evaluation report, this situation may have significantly impeded the preventive function of the Program and the resources devoted to educational efforts.

Display D.5
Trends in the Number of Complaints Filed With the Labour Program



Source: LOIS - Includes complaints of unjust dismissal and complaints not investigated by LAOs (informal complaints).

D.3.2 Correlates of Compliance

Correlations between compliance indicators and various employer characteristics are outlined in the pages below, for complaints (Display D.6), violations (Display D.7), and survey measured compliance practices (Display D.8). These results are briefly discussed below. Overall, union status was found to be the most reliable predictor, followed by number of employees. Generally, predictions to survey compliance were more significant than predictions from LOIS data.

Compliance by Sector: For each indicator of compliance, a modest correlation was found to exist between non-compliance and the trucking industry, while other sectors did not appear to be correlated in a significant manner with either compliance or non-compliance with labour standards.

For example, on the survey compliance indicator, the trucking industry has a lower proportion of high-complying firms than any other sector (followed closely by other transportation groups and First Nations). These results may be affected in part by the prominence of small operations in the trucking sector (see Section D.3.3).

Examining the complaint and violation rates, the relationship between the trucking industry and lower compliance appears very clear, particularly with respect to violation rates. The trucking industry has a much higher rate of violations than most sectors and a much lower proportion of firms with no recorded violations. (It should be noted that violations are largely driven by complaints and are not necessarily a good indicator of overall compliance. Therefore, it appears premature to make any definitive conclusions on the extent to which sector can predict compliance with the Code (see Section D.3.3)).

Compliance by Size: As indicated in the main report, compliance with the Canada Labour Code as measured in the survey was found to be correlated in a statistically significant manner with the size of firms. The relationship is illustrated in Display D.8 shows the percentage of firms of different sizes in three ranges of compliance as measured in the survey. Displays D.6 and D.7 show the relationship between LOIS compliance data (expressed in terms of the total number of complaints/violations over the last five years per thousand employees) and the size of firms.

Not surprisingly, in the population of Federally-regulated businesses, larger firms generally are more likely to have complaints filed or violations recorded against them than smaller firms, simply because they have more employees and because people feel more comfortable in making complaints. Larger firms are less likely to show a rate of complaints/violations of zero by reason of the fact their larger workforce make them more susceptible to be the object of at least *one* complaint or violation. However, they have lower *rates* of violations of complaints per thousand employees than smaller firms, as would be expected from the fact that the survey reports higher compliance among larger firms. In this sense, the survey results and LOIS data are consistent in suggesting that non-compliance is more widespread among smaller firms.

Compliance by Unionization: Displays D.6 to D.8 also show compliance data from the survey and the LOIS data base by unionization. The correlation between higher levels of compliance and unionization is quite apparent from Display D.8, with unionized firms being twice more likely to be in the high compliance category than non-unionized employers. These data also show that the relationship is somewhat less apparent from the administrative data -- complaints do not correlate with union status, and violations are correlated but much more moderately than for the survey indicators.

The difference between the survey and administrative indicator may stem from the fact that unionized workers are more likely to be knowledgeable about their rights under the Labour Code, and protected from reprisals than are non-unionized workers. This higher level of awareness may generate a higher volume of complaints[100] and more violations than would normally occur given the fact that employers in unionized firms are generally more in compliance with the Labour Code (as measured in the survey). This illustrates the kind of "selection bias" occurring in a complaint-driven intervention system, where the least complying firms are not always those generating the most complaints.

Costs and International Competitiveness: The survey asked employers to indicate the extent to which they perceived labour standards to impose costs which would reduce the international competitiveness of their firms. As reported in the main report, reduced international competitiveness as a result of labour standards was indicated to be a major cost by only 7.8 percent of responding employers, to be a minor cost by about 15.2 percent and to impose no costs at all by some 76.9 percent of employers. No correlation was found here with compliance. Costs of compliance with Part III and benefits were, however, also found to correlate significantly with the survey indicator of compliance. Generally firms most in compliance were most likely to identify high costs and high benefits.

View DISPLAY D.6

View DISPLAY D.7

View DISPLAY D.8

D.3.3 Some Multivariate Analyses

Multi-variate analysis can provide a clearer view of how variables are related, than can simple crosstabulations, or simple correlation of one variable with another. Some such analyses are included below, to cast light on the overall evaluation results.

Factor Analysis of Compliance Sub-Indicators: A factor analysis of the survey compliance sub-indicators was conducted to provide an assessment of the extent to which the compliance indicator was unidimensional, that is, where individual sub-indicators are measuring a part of the same underlying phenomenon. Method: Factor analysis is a statistical technique which correlates a number of variables, and extracts underlying factors or dimensions which describe the data. These "factors" are usually described by the correlations or loadings of each variable on the factor, as shown in Display D.9 (next page). Where variables are perfectly correlated or loaded on the factor (loadings of +1 or -1), the variable might be said to measure the factor perfectly. Two statistical summaries are usually extracted, the unrotated factor structure and the rotated, which provide respectively a descriptive, and an analytic view of the relations among variables. Generally, the loadings on the first unrotated factor are taken as providing a good indicator of unidimensionality.

Results: The analysis shows a good tendency towards a unidimensional data structure, with most sub-indicators of compliance loading on the first unrotated factor. The rotated analysis, shows how compliance behaviour of employers tends to cluster. Most sub-indicators are clustered in rotated factor 1: treatment of vacations, holidays, severance, maternity leave, sick leave, bereavement leave, sexual harassment, and provision of worker's compensation or employer self-insurance. However, two sets of sub-indicators appear to be bundled separately in employer behaviour: Factor 2 appears to separately bundle overtime and termination, suggesting that these employment practices are not treated in the same way by owners/human resources managers, as are most employment standards practices.

Implications: Two implications might be considered: first, it would be useful to understand why these components are not treated by employers as part of a more consistent human resources or personnel. Understanding this phenomenon could lead to better educational efforts to link requirements of Part III to human resources/personnel practices. Secondly, there may be implications for the way in which Part III standards are linked and bundled for educational purposes. It is probable that better linking of the rationale for the various components could result in better compliance through better integration with overall human resources practices.

Display D.9
Factor Analysis of Compliance Sub-Indicators
(Loadings over .3 in bold)
(N = 618 Employers)

Unrotated Factor Matrix:

	Factor 1	Factor 2	Factor 3
LONHOURS	.166	.117	-.630
OVERTIME	.104	.555	.080

VACATI	.349	-.402	.181
HOLIDAY	.498	-.140	.036
TERMINA	.408	.651	-.099
SEVER	.617	.268	-.153
CMATRNTY	.494	-.163	.232
CPAYROLL	.267	.215	.645
CSICKLV	.510	-.257	-.297
CBEREAV	.545	-.267	-.159
CSEXHASS	.500	.024	-.020
CWORKCOM	.422	-.025	.264
Rotated Factor Matrix:			
LONHOURS	.116	.214	-.615
OVERTIME	-.120	.546	.116
VACATI	.475	-.248	.170
HOLIDAY	.513	.061	.046
TERMINA	.126	.763	-.045
SEVER	.467	.495	-.114
CMATRNTY	.515	.024	.241
CPAYROLL	.155	.257	.666
CSICKLV	.574	-.020	-.292
CBEREAV	.608	-.025	-.153
CSEXHASS	.452	.215	.000
CWORKCOM	.396	.122	.278

Regression Predictions of Compliance Practices: A regression analysis of employer compliance as indicated by the survey, was undertaken to determine the independent impacts of various factors on compliance behaviour.

Method: Multiple regression technique was applied, a technique in which the relation among a number of variables to a single predicted variable is examined, and the independent effect of each variable on the predicted variable is specified. The variables examined were tested for their ability to predict the overall survey compliance indicator with results as shown in Display D.11. (Note, the direction of predictions is indicated by the Beta (a correlation-type statistic), and the significance of the prediction by t and the significant level of t (here significance less than .01 is taken as significant -- being significant beyond change 99 times in 100)).

Results: The result in D.10 reflects somewhat the crosstabulation analysis provided earlier, and the simple analyses provided throughout the main evaluation report. Key predictors were union status and the presence of human resources professionals dealing with Part III, year began business, number of employees and having sufficient information about Part III. As well, trucking remained significantly correlated with non-compliance even after controlling for other factors, suggesting that an industry "culture" issue may be prominent in trucking role in the grand total of Part III complaints.

Implications: compliance can be predicted (although only with moderate accuracy, as suggested by the multiple R of .43), and indications are that attention to professionals roles, and information dissemination could be key elements in any future re-orientation of Part III program efforts.

Display D.10
Regression Predicting Survey Compliance
(in the survey compliance indicator, a "+" score is compliant, therefore a "+" Beta indicates a correlation with compliance)
(N = 618 Employers)

Variable	Beta	T	Sig T
UNION	+.217	+5.668	.000
PROF	+.159	+4.274	.000
A3YR	+.140	+3.650	.000
EMPLO	+.112	+3.022	.003
INFNEED	-.117	-3.148	.002
TRUCKING	-.125	-2.642	.008
COMMUNIC	+.035	+.772	.441
AIRTRANS	-.020	-.446	.656
NSTEMPLO	-.014	+.376	.707

Multiple R =.43278, R Square = .18730, Adjusted R Square = .17527.

Discriminant Analysis to Predict Survey Compliance:
Discriminant analysis provides a technique similar to regression, but is useful to classify cases on certain criteria. Here, we examined the extent to which a discriminant model could predict overall, whether an employer would be generally compliant, or generally not-compliant with Part III.

Method: Discriminant analysis uses a multi-variate model somewhat similar to regression analysis, but generally more suited to grouping data (e.g. two compliance groupings), testing the ability of variables to predict group membership. The analysis was run to test ability to predict survey compliance (two groupings), using the same variables, except with the addition of previous violations history (derived from LOIS data). Significant results can be seen in Display D.11, with the classification power of each variable indicated by significance (only variables significant at P< .01 are discussed).

Results: The results point to a similar pattern as in the regression analysis, with variables such as union status and presence of human resources professionals dealing with Part III as significant, but also one new result -- past violations were found to be of significant predictive utility in classifying non-compliers. This finding underlines the previously noted suggestion that current methods focused on complaints do not remedy non-compliance -- non-compliers on one element go on to be in non-compliance on others, pointing to the need likely for both better comprehensive education of employers on requirements, and better enforcement for persistent non-compliers.

Display D.11
Discriminant Analysis of Survey Compliance of Employers
Wilks' Lambda (U-statistic) and univariate F-ratio
based on an initial sample of 618 employers, divided
into high (n=440) and low survey compliance(n=153)

Variable	Wilks' Lambda	F	Significance
UNION	.959	16.132	.000
PROF	.962	15.185	.000
VIORATE	.981	7.435	.007
COMMUNIC	.982	6.807	.009
A3YR	.985	5.956	.015
TRUCKING	.992	2.939	.087
AIRTRANS	.993	2.842	.093
INFNEED	.995	1.758	.186
EMPLO	.996	1.637	.202
NSTEMPLO	.999	.196	.658

Some variables used in the multi-variate analyses include:

UNION	Presence of union or not
PROF	Presence of human resources professions (Question A.8)
VIORATE	LOIS violation rate
COMMUNIC	If the employer is in the communications sector
A3YR	Year firm first began operation
TRUCKING	If the employer is in the trucking industry
AIRTRANS	If the employer is in the air transportation industry
INFNEED	Employers reported need for Part III information
EMPLO	Number of employees
NSTEMPLO	Percentage of non-standard employees (on contract etc.)

D.4 Data Base and Other Lessons

The Employer Survey: The study provided a number of interesting methodological lessons. For example, the effort to test a survey approach to measuring compliance appears to have been successful, and this may provide other uses for the program in the future. Past research in occupational health and safety, to illustrate, has found that such a survey may have itself an educational effect. In this case, many employers regarded the survey as a kind of "test", and conducted new learning in completing the survey. Thus a survey may have value as an educational-informational tool, an approach which would be tested.

LOIS Data: As well, the LOIS data was found to be extremely useful. This data base should be improved and further developed, not just for recording and research, but also as a tool for steering education and enforcement. Particular attention is needed to the extent to which this data is up-to-date, as the researchers found much of the information on employers (and particularly unions) to be out-of-date. As well, there is a need to extend the data base, to include firms not known to the Labour Program through complaints.

TABLE OF CONTENTS

Appendix E: Bibliography

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Footnotes

1 However, a somewhat better picture of compliance is observed when results are weighted by employees, rather than employers, since large employers (banks, railways, telephone companies, crown corporations, etc.) are more likely to be in compliance. ▲

2 An element of this lack of awareness is not only that employers are often unaware of what is required of them, but that no systematic communications effort explains to employers why labour standards are needed, why they make sense and what the potential benefits are for all. The evaluators are of the view that more of a "tell me why it's important" approach in education will obtain a better response from employers. ▲

3 It should also be noted that the trucking industry (associations), particularly the Canadian Trucking Association were extremely supportive of this study, particularly the employer survey. ▲

4 Non-compliance data (complaints and violations) contained in LOIS was used to examine correlations with a number of firm's characteristics reported in the survey. The analysis did not reveal extensive correlates of LOIS non-compliance data but some modest correlations were noted for non-unionized firms and the trucking industry which generally had higher rates of violations. In some areas, trucking was approximately tied with or closely followed by air transportation (survey non-compliance) and the grain industry (violations), with First Nations also showing up as having a high level of complaints, as below average in survey compliance, but also low in LOIS violations. ▲

5 Malles (1976). ▲

6 The implications of the changing environment for labour market policies in general are elaborated on in Gunderson and Riddell (1995, 1997). ▲

7 This raises the issue of whether it is appropriate to try to foster worksharing by restricting the long hours of one individual in a single-earner family, when the total family hours in that situation are likely to be less than the total family hours in a dual-earner family even though each individual does not work long hours. ▲

8 Gunderson (1997). ▲

9 These authorities include the authority to enter a workplace, to question an employee in confidence, to inspect and copy records relating to employment standards, to collect statements by employers and employees, and to administer oaths for the purpose of completing an affidavit or statutory declaration. ▲

[10] Request for Proposal, page 6. ▲

[11] See Planning Report for the Labour Standards Evaluation, SPR Associates, November, 1996, for additional details. ▲

[12] See methodology notes, Appendix D for details. ▲

[13] This sub-sample was drawn from the Canada Business Phone CD-ROM, with data weighting derived from the Statistics Canada Business Registry. ▲

[14] Responses were obtained from almost 80 unions. ▲

[15] Blank (1994), Charnovitz (1987, 1992), Krueger (1996), Schoepfle and Swinnerton (1994), Sengenberger and Campbell (1994). ▲

[16] Langille (1991, 1996). ▲

[17] Fields (1995, p.11). ▲

[18] Erickson and Kuruvilla (1994), Herzenberg of Perez-Lopez (1990), Leary (1996), Sapir (1996), Sengenberger and Campbell (1994), Stanford, Elwell and Sinclair (1993) and Van Liemt (1989). ▲

[19] As well, good labour standards are consistent with unions' goal of improving the wages and working conditions of all workers. ▲

[20] This administrative structure dates back to 1993. Historically, a separate Department of Labour existed, one of Canada's oldest government departments, having existed since Confederation. ▲

[21] Fact Book on the Canadian Labour Standards Environment: Context for the Review of Part III of the Canada Labour Code, Strategic Policy, Human Resources Development Canada, August, 1996, p.5. ▲

[22] Ibid., p.10. ▲

[23] To illustrate, only about 40% of LAOs reported that they understood clearly what the level of priority for Part III matters was in the new organization (Display2). ▲

[24] *Regional Delivery of the Labour Program*, Labour Program, September 11, 1995. ▲

[25] This increase in Part III-related activities has largely occurred at the expense of Part II. During the same period, the proportion of time spent on Part II assignments declined from 48% to 35%. Statistics provided by the Labour Program (unpublished). ▲

[26] Compliance Policy, Part III, Human Resources Development Canada, p.2. ▲

[27] Quality Assurance Working Group Report, Labour Program, December, 1995. ▲

[28] It is noted that other examples of sophisticated quality assurance programs exist in the Department, which might

provide lessons for Part III, for example the quality assurance program under Employment Insurance. ▲

29 See Appendix C, LAO Display A.9. ▲

30 See Appendix C, LAO Display A.3. ▲

31 An important gap in performance indicators in the assessment of the evaluators, is the lack of an indicator capturing recidivism — the extent to which field work by LAOs results in the future compliance of employers who have recorded violations. ▲

32 Notice, however, that the net costs of compliance can be reduced by cost shifting (e.g. forward to consumers or backwards to workers) as well as offsetting benefits (e.g. reduced departures or terminations and easier hiring). ▲

33 Allingham and Sandmo (1972), Srinivasan (1973). ▲

34 Fishlow and Friedman (1994) use this model to explain the greater extent of income tax evasion in Latin America in economic downturns and where credit is difficult to obtain especially given the uncertainties associated with inflation. ▲

35 Carroll (1992), Murray (1995). ▲

36 Robb and Robb (1987). ▲

37 Shannon and Beach (1995, p. 298). ▲

38 Adams (1987, p. 58). ▲

39 Ashenfelter and Smith (1979). ▲

40 Ehrenberg and Schumann (1981). ▲

41 Adams (1987, p. 58). ▲

42 In the survey, LAOs reported that they would sometimes not record a violation of the Code when the matter was corrected immediately by the employer. This was reported to occur in about 14percent of all visits made by LAOs (see LAO Display A.4, Appendix C). ▲

43 From analysis of HRDC LOIS data. ▲

44 This may occur for a variety of reasons. For example, in many cases, both employers and employees may find it advantageous to ignore some of these regulations in order to (respectively) increase productivity and earnings. Whether such voluntary agreements are acceptable from a policy perspective depends on the rationale of these provisions, which (as discussed above) is multifaceted and complex. ▲

45 The lack of awareness was particularly noteworthy for group termination provisions (61.0%), but this component of the Code did not apply to a majority of respondents who operated small businesses. Group termination provisions only apply when at least 50 employees are terminated within a four-week period. ▲

46 In theory, a single violation reported by a firm in 1996 would be sufficient to classify this firm in the non-compliance category for that standard, even if the firm generally complied with the provision. However, in most cases, the survey asked firms to report on their general practices. ▲

[47] Some estimates indicate that a small number of firms (about a dozen) employed more than half of all workers in Federally-regulated industries. Source: HRDC Labour Program data. ▲

[48] This is particularly true considering that estimates are based on employer's responses, who would have an interest in presenting a positive view of their firms and practices. Thus the results, while showing a high rate of non-compliance, are still seen by the researchers as likely underestimating non-compliance. ▲

[49] Interestingly, many LAOs also indicated these provisions as requiring stronger enforcement (as opposed to education or simplifying the Code) to achieve better compliance (Display 11). ▲

[50] For more details on the indicator of compliance, see Appendix D, Section D.2. ▲

[51] Only results significant at the $P<.05$ level are reported (i.e., could occur by chance only 5 times in 100). ▲

[52] Rate of violations recorded in LOIS in the last six years by the number of employees reported in the survey. Correlation coefficient of .18 (tabulation from employer survey). ▲

[53] For example, the LOIS data contained a large number of complaints of unjust dismissal which probably bear little relationship with overall records of compliance on other labour standards. These complaints would not be recorded as violations since most complaints of unjust dismissals are settled by mediation. In this sense, it is consistent that violations but not complaints are correlated with the survey indicator of non-compliance, which did not measure unjust dismissals. ▲

[54] On the whole, however, the analysis points to the fact that there is little predictability of complaints and violations and, therefore, that a system solely driven by complaints would poorly target the population of non-complying firms in Federally-regulated industries. ▲

[55] First Nations were high in complaints, but low in violations, a finding which may relate to particular difficulties in delivery of the program to First Nations. ▲

[56] Thompson (1994, p. 177) for British Columbia, Donner (1987, p. 134). ▲

[57] Survey of Employers, Question A.5. ▲

[58] The percentage satisfied is computed as the total indicating 5, 6, or 7, on a 7-step scale where 1 = not satisfied, 4 is neutral, and 7 = satisfied. Generally those satisfied outnumbered those who were dissatisfied. Thus, for example, about 3.5 times as many employers were satisfied with the "fairness of LAO's" as were dissatisfied. ▲

[59] Employers expressed concern not only about consistency of

decisions and information — understandable concerns given the complexity of the code — but also about roles of LAOs. As one noted: "there are inconsistencies in handling of employee complaints from region to region. [one] office acts as a defense council for the employee, while another is a mediator [where LAOs] do good work as mediators." ▲

[60] The greater effectiveness of an educational or facilitative role, rather than a policing role has been demonstrated in others areas as well. For example, 12 years of research on occupational health and safety in Ontario has demonstrated that a facilitative approach is overall more effective in aiding joint health and safety committees, than fines, etc. (See SPR Associates, 1986, 1994, 1996). ▲

[61] See LAO Display A.9, Appendix C. ▲

[62] See LAO Display A.9, Appendix C. ▲

[63] Donner, 1987, p.40. ▲

[64] Robb and Robb, 1987. ▲

[65] Working Group 1: Regulation and Enforcement Alternatives, Labour Program Change Process, Labour Program, Human Resources Development Canada, March, 1995. ▲

[66] Labour Program, Performance Indicators and Secondary Performance Measures, p.4. ▲

[67] A Working Group to study regulations and enforcement alternatives recommended changes in that direction in 1995. ▲

[68] See Appendix C, Union Display C.3. ▲

[69] It should be noted that collective agreements in unionized workplaces already provide for arbitration mechanisms which may be seen as more effective by many union respondents. ▲

[70] See Appendix C, Union Display C.3. ▲

[71] It should be noted that a particular area for cooperation could be joint Federal/Provincial efforts to develop systems to determine which employers are Federal and which are Provincial, and track them. This could reduce the problem of some employers trying to escape regulation by reporting to Provinces that they are "Federal" and reporting to Labour Program that they are "Provincial". ▲

[72] Donner (1987, p. 93), Ehrenberg and Schumann (1982), Robb and Robb (1987). ▲

[73] This highlights how raising or eliminating the ceiling on such payroll taxes may reduce the incentive to work the existing workforce long hours and encourage new hiring. Alternatively stated, such ceilings can be an obstacle to worksharing (Reid 1985). ▲

[74] Donner (1987, p. 91), Robb and Robb (1987) for evidence and references to the Literature. ▲

[75] However, "leakages" to contract work, for example, while not creating "employees", still, of course creates employment. ▲

76 Brown, Gilroy and Kohen (1982) for the United States studies and Gunderson and Riddell (1993, p. 211) for Canadian studies. ▲

77 Discussed in Card and Krueger (1995) and Freeman (1994). The methodologies often involved quasi-natural experiments, comparing the employment responses of fast food chains in contiguous states, some of which were subject to minimum wage increases. ▲

78 Card and Krueger (1995, p. 308) for the United States and Shannon and Beach (1995, p. 300) for Canada. Further, Bloom, Blackburn and Freeman (1990) and DiNardo, Fortin and Lemieux (1996) have attributed some of the rising wage inequality in the United States in the 1980s to the decline in the real value of the minimum wage over that period. ▲

79 Bentolila and Bertola (1990), Lazear (1990). ▲

80 Kuhn (1993, p. 288). ▲

81 Ehrenberg and Jakubson (1988) found advance notice increase unemployment, while Ruhm (1992) found that it reduces unemployment, albeit by only a small amount. ▲

82 Jones and Kuhn (1992), Kuhn (1993). ▲

83 Based on European evidence Bentolila and Bertola (1990) found termination laws reduced unemployment, while Lazear (1990) found them to be associated with higher unemployment. ▲

84 See Display 15, showing major costs only. ▲

85 See Display 15, showing major costs only. ▲

86 In 1986, it was estimated that only about 1.4% of Federally-regulated employees received the minimum wage. Minimum wage regulations were modified in 1996 to adjust the level of Federal minimum wage to that of the province in which an employee is working. It is therefore possible that a larger proportion of Federally-regulated employees are now receiving minimum wage, but probably still a very small minority. See: Fact Book on the Canadian Labour Standards Environment: Context for the Review of Part III of the Canada Labour Code, p.8. ▲

87 The survey did suggest, however, a small proportion of deliberate non-compliance for specific Code items. ▲

88 It is generally believed that the current overtime rate does not constitute an effective disincentive to use overtime, considering the higher costs associated with hiring and training new workers. ▲

89 Rather union representatives' awareness of employment standards was found to be indicated mainly by their awareness of conditions of work as set by their specific collective agreement. ▲

90 In fact, about 28% of LOIS employers were determined to no longer exist, and most employer records required corrections to contact names, addresses and phone numbers, suggesting that the LOIS data base is not used by LAOs as a primary information source for contacts with employers. ▲

91 This would not be surprising, since such classification often involves a complex review, and sometimes takes Labour Program months to complete, with, for example, consultations with the Provinces/ Territories or other agencies. ▲

92 Data was obtained from Labour Program regarding SIC groups and federal regulatory coverage for purposes of Part III -- whether 100% or otherwise. ▲

93 Thus for each sub-group of the LOIS population, weights were formulated as: nsurveyed(i)/npopulation(i), where (i) represents sub-groups by compliance strata/province or territory/major industry/size), and Non-LOIS firms are assumed to replace the 28% of LOIS employers no longer in operation. ▲

94 A factor analysis of compliance reports of employers indicated to the contrary, that most compliance is accounted for by three somewhat different sub-factors: a general employment standards factor, including items such as compliance regarding vacations, holidays, severance sick leave, bereavement leave and sexual harassment policy, and two more specific sub-factors. ▲

95 The "0" thus has two different although related meanings. In the first instance, "0" is assigned for an individual element in the Labour code (such as if the "employer pays employees overtime when required"), when compliance could not be determined. In this case "0" is a kind of "neutral" score for the item. ▲

96 The correlation is a statistical indicator designed to show the relationship between two variables. The correlations reported here are all Pearson's r, which is "-1" for variables which are perfectly negatively correlated, "0" for variables which have no relation, and "+1" for variables which are perfectly correlated (one is high and the other is always high). ▲

97 Chi square is an indicator of the extent to which statistical variation in a crosstab table is variable beyond chance. ▲

98 For example, if one complaint is investigated about unpaid wages, the LAO usually investigates that particular employee, but would not, as a rule, audit payment of wages to other employees. Similarly, if the LAO investigates a complaint regarding one provision of the Code, there would be no requirement to review the employer's compliance with other Code provisions. ▲

99 From the Labour Operations Applications Development unit, delivered January 15, 1997. Contact: Chris Hayes. ▲

100 Particularly when complaints are filed directly by the trade union. ▲

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Last Modified: 2001-08-08 **Important Notices**